

General Terms and Conditions of Purchase Testo Sensor GmbH (as of June 2023) (Testo Sensor GmbH is referred to in this contract as TSG)

1. General information - scope of application

(1) The following terms and conditions of TSG shall apply to all contracts concluded between TSG and the supplier for the delivery of goods. They shall also apply to all future business relations, even if they are not expressly agreed again. Any deviating terms and conditions of the supplier to which TSG does not expressly agree in writing shall not be binding for TSG, even if TSG does not expressly object to them. TSG's terms and conditions shall also apply if TSG accepts the delivery without reservation in the knowledge that the supplier's terms and conditions conflict with or deviate from TSG's own terms and conditions.

(2) All agreements made between TSG and the supplier in connection with the purchase contracts shall be recorded in writing.

2. Offer and conclusion of contract, contractual documents, service performance

(1) TSG shall be bound by a written offer for the conclusion of a purchase contract (order) for 14 calendar days. The supplier may only accept this offer within 14 days by written declaration to TSG or execute the offer without reservation through the dispatch and arrival of the goods.

(2) Drawings, plans and other documents pertaining to the order remain the property of TSG. TSG reserves all copyrights to these documents. If the supplier does not accept TSG's offer within the period specified in paragraph 1, these documents shall be returned to TSG without delay. After termination of the purchase contract, the documents are to be returned immediately.

(3) Without the prior written agreement of TSG, the supplier is not entitled to have the service performed by third parties (e.g. subcontractors).

3. Prices and payment terms

(1) Agreed prices are fixed prices, are free to destination (i.e. free of shipping costs) and include all packaging costs, unless agreed otherwise. The prices exclude VAT.

(2) Payment shall be made subject to proper delivery within 30 days net (bank transfer) after receipt of the invoice. The submission of the transfer order by TSG to their bank is adequate for the timeliness of the payment owed by TSG.

(3) The payment deadline shall commence when both the invoice and the goods have been delivered in full and in accordance with the contract. The payment is subject to invoice checking. TSG reserves the right to choose the method of payment. In the event of defective delivery, TSG shall be entitled to withhold payment pro rata until proper performance.

(4) If the assumption of shipping costs by TSG has been agreed, the supplier shall choose the shipping method with the lowest costs. Additional costs for an accelerated shipment to meet the agreed delivery date shall not be borne by TSG. In the event of express deliveries requested by TSG before the agreed delivery date, TSG shall bear the associated additional costs.

(5) In the event of a payment default, TSG shall owe default interest amounting to the base interest rate. TSG shall not be liable for interest on arrears.

4. Delivery period and delivery date

(1) The delivery times and dates stated on the order are binding. The arrival of the goods at the place of destination is decisive. The supplier is obliged to inform TSG immediately in writing of any possible non-compliance with the agreed delivery time.

(2) TSG may refuse to accept goods which are delivered before the delivery date specified on the order or which belong to partial or multiple deliveries and may return the goods to the supplier or store them with a third party at the supplier's expense and risk.

(3) If TSG is prevented from accepting the delivery by unavoidable circumstances, in particular by force majeure, industrial disputes, operational disruptions etc., the acceptance period shall be postponed for the duration of the hindrance. If acceptance is not possible for more than 6 months due to the circumstances mentioned, TSG shall have the right to withdraw from the contract without any claims on the part of the supplier.

(4) In the event of a delivery delay, TSG is entitled to demand a contractual penalty of 1% of the delivery value for each week commenced, but not more than 5%. TSG is entitled to claim the contractual penalty in addition to performance. Further claims remain unaffected. If the delayed goods are accepted, TSG shall claim the contractual penalty at the latest upon payment of the final invoice.

5. Delivery, transfer of risk, packaging

(1) Delivery shall be made within Germany to the destination specified on the order. If the place of destination is not specified and no other agreement has been made, delivery shall be made to our warehouse at Ludwig-Kegel-Straße 15, 79853 Lenzkirch.

(2) Each delivery shall be accompanied by a delivery note with order number and order date. If an index number is specified in the order, this must also be noted on the delivery note. If the above information is missing, TSG shall not be liable for any delays in processing or payment.

(3) The transfer of risk shall take place upon handover in the reception area of the place of destination, unless agreed otherwise. If the supplier is obliged to set up or install the equipment, the risk shall not pass to TSG until the equipment is put into operation.

(4) The supplier is obliged to take back, collect and properly dispose of packaging material free of charge. Unless agreed otherwise, the packaging material used by the supplier must be of such a nature and labelled so that it can be disposed of without further expense in accordance with the applicable statutory provisions.

6. Transfer of ownership

(1) Ownership shall pass to TSG or the recipient designated by TSG when the goods are handed over to TSG.

(2) The transfer of ownership of the goods shall be unconditional and independent of the payment of the purchase price. In any case, all forms of extended or prolonged retention of title are excluded, so that any validly declared retention of title by the supplier shall only apply until payment has been made for the goods delivered to TSG.

7. Work results, rights of use

(1) The supplier shall irrevocably and exclusively grant TSG all rights to the work results, in particular copyright rights of use and rights of use to related rights as defined by copyright law (including all stages of development) as well as rights of use and, as far as possible, proprietary rights to other intellectual property rights which they acquire or have already acquired during the period and under the contract for TSG on the basis of their services, without limitation as to time, territory and content, if these were obtained

- in connection with the business activities for TSG by the supplier and/or
- were developed or acquired using material and/or working hours provided by TSG, and/or
- are in connection with their work during the period of the contract relationship with TSG.

8. Inspection of damage and liability for damage

(1) TSG shall inspect the goods immediately upon arrival of the delivery for obvious damage, identity, missing quantities and recognisable transport damage.

(2) TSG shall be notified of any defects identified upon delivery or later. In all cases, notification of defects shall be deemed to have been made without delay and in good time if it is made to the supplier within one month of delivery or performance of the service or after identification. TSG is not subject to any further inspection or notification obligations.

(3) The statutory provisions shall apply to TSG's rights in the event of material defects and defects of title, unless agreed otherwise. The supplier is liable in particular for ensuring that the goods have the agreed quality, are free of material defects and defects of title and correspond to the state of the art. The product descriptions apply as the agreed properties.

(4) If a defect becomes apparent within 6 months of delivery, it shall be presumed that the defect was already present at the time of delivery.

(5) TSG shall be entitled to demand from the supplier, at TSG's discretion, remediation of the defect or delivery of a new item. This also applies to delivery from abroad. The right to claim damages is expressly reserved.

(6) If the supplier does not fulfil their obligation of subsequent performance within the period set by TSG, TSG shall be entitled to remedy the defect themselves or have it remedied by a third party. The costs of this defect remediation are borne by the supplier.

(7) The supplier warrants that the rights of third parties, in particular industrial property rights, patents, trademarks, utility models, design patents, selective distribution agreements etc., both in Germany and in the respective distribution countries of TSG, are not infringed or impaired by the distribution or placing on the market of the delivered goods. The supplier shall immediately indemnify TSG against all claims by third parties who complain of infringements of rights of the aforementioned nature and shall reimburse TSG for expenses. In the event of legal disputes between the third parties and TSG, the supplier shall bear all costs associated with the legal clarification plus the costs incurred in advance (expert opinions, lawyers etc.)

(8) The warranty period shall be 36 months for claims for material defects and 60 months for claims for defects of title, unless longer limitation periods are stipulated by law. The warranty period of 36 months shall also apply to deliveries within the scope of subsequent performance due to liability for defects.

(9) All costs incurred by TSG as a result of a defective delivery, in particular transport, installation and removal, travel, labour and material costs, shall be borne by the supplier.

9. Supplier recourse

(1) In addition to the claims for defects, TSG shall be entitled without restriction to the legally regulated recourse claims within the supplier chain. In particular, TSG is entitled to demand from the supplier exactly the type of subsequent performance that TSG owes to TSG's customer in the individual case.

(2) Before TSG acknowledges or fulfils a claim for defects by TSG's customer, TSG shall inform the supplier, briefly stating the facts, and request a written statement. If no statement is made within a reasonable period of time and/or no amicable solution is found, the claim for defects actually granted by TSG shall be deemed to be owed to TSG's customer; in this case, the supplier shall be responsible for proving the contrary.

(3) TSG's claims from supplier recourse shall also apply if the goods have been further processed by TSG or a customer of TSG, e.g. by incorporation into another product, prior to their sale to a consumer.

(4) The claims from supplier recourse expire at the earliest 2 months after the time at which TSG has fulfilled the claims of the purchaser, but at the latest 5 years after delivery of the goods to TSG.

10. Product liability and liability insurance

(1) If the supplier is responsible for product damage, they shall indemnify TSG against third-party claims insofar as the cause is within their sphere of responsibility and they are outwardly liable themselves.

(2) Within the scope of their indemnification obligation, the supplier shall reimburse all expenses arising from or in connection with the claim by a third party, including recall actions carried out by TSG. TSG shall inform the supplier - insofar as possible and feasible - about the content and scope of the recall measures to be carried out and give them an opportunity to take a stance. Further legal claims remain unaffected by this.

(3) The supplier undertakes to take out and maintain liability insurance with a total sum insured of at least 10 million euros per personal injury/property damage.

(4) Legal regulations apply in addition.

11. Provision of materials and tools

(1) Materials provided shall remain the property of TSG. The processing and modification of items provided shall be carried out for TSG. If they are processed with other items not belonging to TSG, TSG acquires the co-ownership of the new item according to the ratio of the value of the TSG item to the other processed items at the time of processing. If there is a mixing or combining in such a way that the goods of the supplier are to be considered as the main item, it is considered agreed that the supplier transfers co-ownership proportionately. The supplier shall keep the co-ownership for TSG. The supplier shall immediately inspect the supplies to ensure that they are free of defects.

(2) Production aids such as models, samples, devices etc. which TSG makes available to the supplier or which are manufactured by the supplier for TSG shall remain the property of TSG or shall become the property of TSG; this shall also apply in the event of separate invoicing by the supplier. The aforementioned tools shall be marked by the supplier as the property of TSG and shall be carefully stored by the supplier. The costs for maintenance and servicing shall be borne equally by the contracting parties. However, if these costs are due to defects to such items manufactured by the supplier or to improper use by the supplier, the supplier shall bear these costs alone.

(3) The supplier is obliged to protect the aforementioned tools from any kind of damage at their own expense. The supplier hereby assigns all compensation claims from the insurance to TSG and TSG hereby accepts the assignment.

(4) Insofar as there are industrial property rights, in particular copyrights, for material provided and tools, these rights belong to TSG. TSG shall be entitled to all work results arising in connection with the manufacture of tools (incl. copyright). These work results shall be assigned in full to TSG at that time and without separate remuneration. TSG hereby accepts this assignment.

(5) Material that is provided and tools may only be used for the purposes of the contract with TSG and may not be passed on to third parties without the prior written consent of TSG.

12. Confidentiality

(1) The supplier is obliged to maintain confidentiality regarding the terms of the order as well as all information and documents provided for this purpose (with the exception of publicly accessible information). These may only be disclosed to third parties with the prior written consent of TSG.

(2) The confidentiality obligation only expires if and insofar as the knowledge contained in the documents provided has become general knowledge.

13. Replacement parts

(1) The supplier guarantees that all individual parts required for the continuous use of the delivery item are kept in stock for TSG for a period of at least 5 years after delivery.

(2) If the supplier intends to discontinue the production of spare parts, they shall inform TSG immediately after the decision. Subject to paragraph 1, this decision shall be taken at least 12 months before the cessation of production.

14. Import / export / customs clause

(1) The supplier shall comply with all requirements of the applicable national and international customs and foreign trade law. After placing an order or making changes, the supplier shall immediately provide TSG in writing with all information and data required by TSG to comply with customs and foreign trade regulations for export, import and re-export.

(2) If the supplier breaches their obligation in accordance with paragraph 1, they shall reimburse TSG for all expenses and damages incurred by TSG as a result, unless the supplier is not responsible for the breach of obligation.

15. Product-related environmental protection and declaration obligations

(1) The deliveries must comply with the applicable European legal directives, in particular the safety and environmental protection regulations such as Directive 2001/95/EC (product safety), EU Regulation No. 1907/2006 (REACH), Directive 2011/65/EU (RoHS) and the uniform standards or parts of these standards, whose sources are published in the Official Journal of the European Union.

(2) In particular, no substances subject to legal restrictions may be contained. The supplier further assures that the deliveries comply with the current limit values of the RoHS Directive (2011/65/EU). This also applies to products that do not fall within the scope of the Directive. The only exceptions to this are products that clearly cannot be components of electronic products from the TSG range, such as packaging, office materials, office furniture etc.

(3) If a product is subject to a substance information obligation or makes use of exemptions from substance restrictions, in particular if it is subject to an exemption of Annex III or IV of the EU Directive 2011/65/EU (RoHS) or contains substances listed in the current candidate list pursuant to Article 59 (1) of Regulation (EC) No. 1907/2006 ("REACH"), the supplier must notify TSG of this at the time of the first delivery by sending a declaration to the following e-mail address:
quality@testo-sensor.de

(4) An overview of prohibited and declarable substances can be obtained from TSG upon request.

16. Place of jurisdiction, applicable law, place of performance

(1) The place of jurisdiction for all legal disputes arising directly or indirectly from contractual relationships based on these Terms and Conditions of Purchase shall be Freiburg im Breisgau (Germany). TSG is also entitled, at TSG's discretion, to proceed against the supplier at the place of jurisdiction of its registered office or branch or the place of performance.

(2) The law of the Federal Republic of Germany applies exclusively, under exclusion of conflict of laws and the UN Convention on Contracts for the International Sale of Goods (CISG).

(3) The place of performance for all obligations arising from the contractual relationship shall be TSG's place of business in Lenzkirch (Germany), unless specified otherwise.

17. Severability clause

(1) Should individual provisions or parts of provisions of these General Terms and Conditions of Purchase prove to be invalid or unenforceable, this shall not affect the validity of the remaining provisions or parts thereof.

79853 Lenzkirch, 01.06.2023