

**Purchase and Order Conditions of Stadler Pankow GmbH,
Version: 05/2018****1. Scope of application**

The following provisions govern the conditions relating to orders issued by Stadler Pankow GmbH (Purchaser) for the provision of services, work services, delivery of goods and other legal relationships in the context of procurement (Contract). These Purchase and Order Conditions (POCs) shall only apply if the supplier is an entrepreneur (Section 14 of the German Civil Code [BGB]), a legal entity under public law or a special fund under public law. They shall also apply to all future transactions with the supplier, even if they are not expressly agreed upon again.

2. Conclusion of contract

Orders are made on the basis of these POCs. Conflicting, deviating or supplementary conditions of the supplier are not binding for the purchaser, even if, being aware of this fact, the purchaser does not expressly object to these conditions and accepts the delivery without reservation, or if the supplier declares that they are only prepared to deliver on their own terms.

The supplier is obliged to either confirm or reject orders in writing immediately, but in either case within a period of two weeks. Insofar as the supplier does not reject a written order within the aforementioned period, the conditions specified in the order as well as these POCs shall be deemed to have been accepted for the performance of the service; this shall also apply even if these conditions differ from the supplier's offer. Should the supplier reject an order or issue an order confirmation that differs from the original order, a contract shall not be deemed to have been concluded unless the purchaser gives their consent thereto in writing. Should the purchaser and the supplier have any doubts regarding the agreed conditions of the contract, the conditions stipulated in the written purchase order and these POCs shall apply.

All individual agreements regarding a contract between the purchaser and the supplier are to be recorded in writing in the respective order or in separate contracts.

The assignment or subcontracting of ordered deliveries and services to third parties requires the written consent of the purchaser.

The supplier accepts that, at any time until the delivery is executed, changes to orders may be made within the limits of what is customary in the industry. Consequently, adjustments to the delivery dates and prices shall be made to the extent that is required and reasonable.

3. Delivery, delivery date and place of performance

The currently valid packaging guidelines of the purchaser, contained in Part II of these Conditions, shall apply. As for everything else, the following shall apply: Delivery items must be properly packaged according to the packaging guidelines (in accordance with the delivery variant) and labelled, with accompanying product documentation enclosed. Any additional costs incurred by the purchaser in the event of non-observance of the above regulations by the supplier shall be borne by the supplier.

When performing all deliveries and services, the supplier must consider how the energy input may be minimised during the process of selection and manufacture of products as well as the provision of services. By using the best available and economically justifiable technology, a high level of energy efficiency of the products or services must be ensured by the supplier and any subcontractors commissioned by them.

The delivery date agreed in the order is binding. Advance deliveries are only permitted with the written consent of the purchaser. The timeliness of deliveries without assembly or installation shall be determined by the time of receipt at the address specified by the purchaser. The timeliness of deliveries involving installation or assembly and of services shall be determined by the time of their availability in a condition ready for acceptance. If, contrary to the above, it is agreed that the supplier shall not be responsible for the shipment itself, the supplier must label and make the items available in good time, taking into account the usual time required for loading and shipping.

The supplier provides full warranty for compliance with the delivery dates specified in each individual case. If circumstances which jeopardise the adherence to the agreed delivery date occur or become apparent to the supplier, the supplier must inform the purchaser of this fact immediately. In the case of default of delivery on the part of the supplier, the purchaser shall be entitled to flat-rate default damages to the amount of 0.5% of the order value for each commenced week (starting from the second day of the

commenced week, otherwise 0.20% for the one day of the commenced week), but no more than 5% of the order value. Further statutory claims remain unaffected. The supplier has the right to prove to the purchaser that no or significantly lower damages have been incurred as a result of the delay. The purchaser has the right to prove higher damages caused by default.

If the delivery date agreed between the purchaser and the supplier is based on calendar days, the supplier shall automatically be in default on expiry of that date without a further notice being required.

The supplier is obliged to clearly indicate the order number and the product number(s) of the purchaser on all shipping documents and delivery notes. If the supplier fails to provide the above information, the resulting delays in processing shall not be the responsibility of the purchaser.

The place of performance for deliveries or services of the supplier is the shipping address specified in the order. If the shipping address is not specified and the place of performance does not arise from the nature of the contractual relationship, the place of performance shall be the purchaser's address.

The supplier guarantees that no third-party rights, in particular intellectual property rights, shall be infringed in connection with their service. Should a third party assert claims against the purchaser due to the above, the supplier shall be obliged to indemnify the purchaser against these claims upon first written request. The purchaser shall not enter into any agreements with such third parties without first giving the supplier the opportunity to make a statement in response.

The supplier's duty of indemnity relates to all expenses which the purchaser has had to incur and which arise out of or in connection with a claim by a third party insofar as the statutory limitation period is shorter, the limitation period for these claims shall be 10 years, starting with the conclusion of the respective contract.

4. Production materials and provisions

Items of any kind provided by the purchaser to the supplier remain the property of the purchaser. Drawings, plans and other documents which form part of an order shall remain the property of the purchaser, who reserves all proprietary and industrial property rights and all copyrights in relation to these documents. They may only be used to provide the ordered deliveries and services and, after completion of the order, they must be returned to the purchaser in a functional condition and in full.

If the supplier does not accept an offer by the purchaser within the confirmation period specified in Section 2 Paragraph 4 and if no contract is implicitly concluded (Section 2 Paragraph 2), all objects, drawings, plans and other documents provided by the purchaser must be returned to the purchaser.

The supplier is obliged to carry out any necessary maintenance and inspection work at their own expense and to adequately insure the items made available to them, as well as to provide evidence thereof to the purchaser upon request.

Insofar as the items provided by the purchaser are processed or transformed by the supplier into a new movable object, any rights to that new movable object shall belong to the purchaser. If items provided by the purchaser are processed with other items not belonging to the purchaser and converted into a new object, the purchaser shall acquire the co-ownership of the new object in proportion of the value of the items provided by the purchaser (purchase price plus value added tax) to that of the other items at the time of processing.

If items provided by the purchaser are inseparably combined with other items not belonging to the purchaser, the purchaser shall acquire the co-ownership of the new object in proportion of the value of the items provided by the purchaser (purchase price plus value added tax) to that of the other combined items at the time of the combination being effected. If the combination takes place in such a way that the supplier's item is to be regarded as the main item, it shall be deemed to have been agreed that the supplier assigns co-ownership to the purchaser on a pro rata basis; the supplier shall hold the sole ownership or co-ownership on behalf of the purchaser.

Insofar as the purchaser's collateral interests exceed the still unpaid purchase price of all goods subject to the right of retention by more

than 10%, if the supplier so demands, the purchaser shall be obliged to release the collateral interests of the purchaser's choice.

Data carriers or other documents become the property of the purchaser upon transfer. At the same time, the supplier assigns to the purchaser all rights arising from the performance of the services and their results - insofar as permitted by law.

Even after expiry of the contract, the purchaser may use the services provided by the supplier without any restriction. The supplier agrees that the services provided by them are used without reference to the copyright.

At the request of the purchaser, the supplier shall transfer inventions to the purchaser, their legal successor or authorised representative after immediate information about such inventions. The inventions become the property of the purchaser, regardless of whether an application for a patent is made or not.

The supplier shall enter into agreements with their employees to ensure compliance with the provisions of Sections 4 and 11 of this Contract.

5. Special service-related obligations

For each order placed on the basis of this Contract, the purchaser shall designate an employee responsible for overseeing the fulfilment of the contractual services, who shall act as the supplier's contact person for all questions related to the execution of the ordered service. The supplier shall be responsible for the supervision and instruction of their own employees.

In order to ensure due and timely fulfilment of the Contract, the supplier shall only deploy qualified employees. If employees of the supplier have to be replaced for reasons associated with their personal circumstances, the supplier shall not be permitted to claim a missed deadline or assert claims for compensation.

The supplier's employees may not contact the purchaser's customers in connection with the service ordered, unless the purchaser gives their prior written consent thereto. The supplier undertakes to expressly inform their employees that, when making contact with the purchaser's customers, they may only represent the interests of the purchaser.

6. Prices and terms of payment

The price stated in the order is binding. The prices stated are inclusive of the costs of delivery to the place of performance. All costs associated with the transport of the goods to be delivered, including insurance, customs duties, fees and taxes, shall be borne by the supplier. If the prices agreed are ex works of the supplier, from the border or from another designated place, the purchaser shall bear the transport costs from the agreed place to the agreed amount; All other costs, in particular, insurance, customs duties, fees and taxes, shall be borne by the supplier. Payments which are made by the purchaser to third parties must be reimbursed by the supplier.

Unless otherwise agreed, the stated prices are exclusive of value added tax to the amount determined by statutory provisions. Invoices issued by the supplier must comply with the VAT requirements, in particular, the tax amount must be reported separately. For each completed delivery, separate invoices stating the order details are to be sent in duplicate to the address of the purchaser or another address designated by the purchaser.

Unless otherwise agreed in writing, the purchaser shall pay the purchase price within fourteen days, calculated from delivery and receipt of the invoice, with a 2% discount, or within 30 days after receipt of the invoice. If services are accepted earlier than the agreed delivery date, the due date shall be calculated in accordance with the delivery date originally agreed. The purchaser shall have the right of offsetting and retention (e.g., due to faulty delivery) to the extent permitted by law. Payment within 14 days after due fulfilment entitles the purchaser to a discount.

Payment by customer shall not be commensurate with their recognition of the delivery as being in accordance with the Contract, unless such an additional statement is included with the payment.

The purchaser shall be entitled to impose contractual penalties agreed here or elsewhere until the due date of the final payment, irrespective of whether the purchaser has reserved these in the course of acceptance.

7. Term

The term shall be defined by the contract period agreed in the respective order.

8. Quality

If required, the purchaser and supplier shall sign the Stadler Quality Management Guidelines for Suppliers in their currently valid version. Unless the above agreement is concluded, the following conditions shall apply.

The supplier is obliged to maintain and continuously develop an appropriate quality management system according to EN ISO 9001 et seq. The supplier shall apply the recognised rules of technology and the relevant safety regulations in order to comply with agreed technical data and requirements, such as the requirements of the International Union of Railways (UIC). Before subcontracting, the supplier must enter into corresponding agreements with the subcontractor to ensure that the latter is equally bound by these requirements.

At any time and provided that adequate prior notice is given, the purchaser may inspect the effectiveness of the quality management system in accordance with EN ISO 9000 et seq. within the scope of a factory tour. The purchaser must be allowed to inspect any documentation which is necessary to allow them to determine whether the supplier has effectively implemented these provisions. Documentation must be kept safely by the manufacturer for the customary periods and, if agreed, attached to the delivery for record.

Once the purchaser has released a product for production, any changes in the manufacturing method of the delivery items or changes in the delivery items themselves which may affect their quality, suitability or other characteristics are only permissible after written request from the supplier and written consent of the purchaser.

The quality of the delivery items shall be subject to the permanent monitoring and inspection by the supplier as part of their quality management system.

The supplier must inform the purchaser if delivery items prove unsuitable for the intended purpose or related purposes if he is aware of such circumstances without making undue efforts.

The same shall apply to all possible improvements to the delivery items, also including the extent to which they may have an influence on reducing the manufacturing costs for the supplier.

9. Warranty

The acceptance of a delivery shall be subject to an inspection for correctness and completeness. The purchaser is obliged to inspect the goods within a reasonable period for any deviations in quality and/or quantity. A complaint made in this respect shall be deemed to be timely if it is received by the supplier within a period of 10 working days, calculated from receipt of the goods or, in case of a hidden defect, from the time of its discovery. After verification of the effectiveness of the supplier quality management system (auditing), more detailed agreements regarding the incoming goods inspection can be defined in individual contractual regulations; see Section 8: "Quality".

The supplier guarantees the quality and standards specified in each individual case as well as compliance with all relevant standards and regulations concerning product, operational and occupational safety, as well as environmental protection. For a period of 24 months starting from the transfer of risk, the supplier provides full warranty for the freedom from defects in relation to the goods which they have processed, manufactured and/or delivered or for the freedom from defects in relation to the work which they have performed.

Insofar as the delivery is defective, the purchaser shall be entitled to assert claims on the basis of the statutory provisions related to defects. In any case, the supplier shall be obliged to either remedy the defect or to replace the goods at the discretion of the purchaser. The purchaser expressly reserves the right to claim damages instead of performance. The purchaser shall be entitled to have the defect remedied at the expense of the supplier in case of imminent danger or exceptional urgency, of which the supplier shall be informed in advance, as far as reasonable.

10. Product liability

Insofar as the supplier is responsible for damage to a product, they shall be obliged to indemnify the purchaser against resulting third-party claims for damages upon first request, as such damage was

caused within their area of control and organisation and to the extent he is liable in relation to third parties.

Within the scope of their liability for claims for damages within the meaning of the previous paragraph, the supplier shall also be obliged to reimburse any expenses pursuant to Sections 683, 670 of the German Civil Code [BGB] and Sections 830, 840, 426 of the German Civil Code [BGB] resulting from or in connection with a product recall carried out by the purchaser. As far as possible and reasonable, the purchaser will inform the supplier of the content and scope of the recall measures to be carried out and give them an opportunity to make a statement in response. Further legal claims remain unaffected.

During the term of this Contract, i.e. until the respective expiry of the defect limitation period, the supplier undertakes to maintain a product liability insurance policy with a (flat-rate) coverage level of EURO 10,000,000.00 per personal injury / property damage; If the purchaser is entitled to further claims for damages, these shall remain unaffected.

11. Confidentiali

The supplier undertakes to maintain confidentiality in relation to all non-public commercial and technical information of oral or written nature and documents which they have obtained in connection with past, present and future services and as a result of the business relationship, as well as in relation to the results achieved from the provision of services, in particular intellectual services (as far as these are not published by the purchaser), and to use the above exclusively for the provision of the ordered deliveries and services. Any subcontractors shall be required to sign a corresponding confidentiality undertaking. Upon request, the supplier shall provide evidence of this. The supplier shall be liable for any damage resulting from a breach of the non-disclosure obligation.

When submitting references or making publications, the supplier may only mention the purchaser's company or trademarks with the prior written consent of the purchaser.

Unless required for the performance of their obligations, the supplier and their employees are prohibited from viewing documents, files, drawings and other documents at the purchaser's premises, as well as opening and searching cabinets, desks and other containers. Should an employee of the supplier violate this prohibition, they must be changed forthwith.

12. Purchaser's right to information

At any time and upon request of the purchaser, the supplier shall be required to allow the purchaser full insight into the respective work results and to provide all other information necessary for disclosure purposes, as well as to grant the purchaser access to the rooms in which the services ordered are provided, at any time during the supplier's usual working hours.

13. Replacement parts and delivery capacity

The supplier is obliged to deliver replacement parts on reasonable terms throughout the period of normal technical use, but at least for 10 years after the last delivery of the delivery item. If the supplier stops the delivery of replacement parts after this deadline or stops the delivery of the delivery item during this period, the purchaser shall be given the opportunity to place a final order.

14. Final provisions

If the supplier is a merchant within the meaning of the German Commercial Code (HGB), Berlin shall be the exclusive place of jurisdiction, including cheques and bills of exchange procedures. The same place of jurisdiction shall apply if the supplier does not have a general place of jurisdiction in the Federal Republic of Germany at the time of legal proceedings being initiated. However, the purchaser shall be entitled to make an application to the court which has jurisdiction over the domicile of the supplier.

The law of the Federal Republic of Germany shall apply exclusively, to the exclusion of all international and supranational (contract) legal systems, in particular the UN sales law.

These Conditions have been translated into English solely for the supplier's convenience. Only the German version of these Conditions shall be authoritative.

Changes or additions to the agreements made must be recorded in writing.

Should a provision be wholly or partially ineffective, the contracting parties shall immediately endeavour to achieve the desired economic effect of the ineffective provision in another, legally permissible manner. - - -