

# Südkabel GmbH

## General Terms and Conditions of Purchase

### 07/2024 – for use in business transactions with entrepreneurs –

#### I. General Provisions

These General Terms and Conditions of Purchase apply to all procurement transactions relating to deliveries and/or services to Südkabel GmbH (hereinafter referred to as "Südkabel"/"Client"/"Customer"), regardless of whether these are tools, machines, equipment, raw materials, works of any kind or services (hereinafter referred to as "Goods"). These General Terms and Conditions of Purchase shall apply to all present and future business relationships between Südkabel and the supplier (hereinafter referred to as the "Supplier"/"Contractor") of the above-mentioned Goods, for their order and purchase by Südkabel. They do not apply to natural persons who conclude a legal transaction solely for a purpose that cannot be attributed to their commercial or independent professional activities. By accepting and executing an order and/or a purchase order, the Supplier recognises these General Terms and Conditions of Purchase in the version valid at the time of the order. The General Terms and Conditions of Purchase can be accessed at any time on the Südkabel website [www.suedkabel.de](http://www.suedkabel.de).

Deviating, conflicting or supplementary general terms and conditions or general terms and conditions of sale of the Supplier shall not become part of the contract, even if Südkabel is aware of such, unless their applicability is expressly agreed to in writing when the contract is concluded. In this case or if special conditions are agreed for specific orders, the General Terms and Conditions of Purchase shall apply subordinately and as a supplement. These General Terms and Conditions of Purchase shall apply even if the contract is executed by the Supplier without reservation in the knowledge that the Supplier's terms and conditions conflict with or deviate from these General Terms and Conditions of Purchase. Acceptance of a delivery or service from the Supplier by Südkabel does not imply consent to the Supplier's general terms and conditions. Moreover, silence with regard to an order confirmation of the Supplier with contradictory declarations by the Supplier does not imply consent to such.

#### II. Order and Order Confirmation

The conclusion of the contract and all agreements between Südkabel and the Supplier for the purpose of executing the contract must be made in writing. Agreements made orally or by telephone shall be binding and legally effective for Südkabel only if they have been expressly confirmed in writing by Südkabel. This also applies to all amendments, additions, specifications, etc.

Orders must be confirmed by the Contractor without delay, stating the reference number. Execution of the ordered deliveries and/or services by third parties is subject to the prior written consent of Südkabel.

The performance scope shall be governed by the respective individual order.

#### III. Delivery Dates and Contractual Penalty

The delivery and fulfilment dates specified in the orders, which the Supplier shall carefully check before confirming an order, shall be binding. The day on which the Goods arrive at Südkabel's registered office or the place of performance agreed in the individual contract concluded for the order will be deemed to be the date of delivery. At the Supplier's expenses, the deliveries shall be insured against transport damage, incorrect loading/unloading and theft.

If it becomes evident that delivery dates cannot be complied with, the Supplier shall without delay inform Südkabel. Otherwise, he can no longer invoke such circumstances later on. This shall not affect the rights of Südkabel in any way.

In the event of culpable delay in delivery by the Supplier, Südkabel may demand a contractual penalty amounting to 0.2% of the delivery value according to the final invoice for every new day of delay, but not more than a total of 5% of the delivery value according to the final invoice. Südkabel's right to rescind the contract and/or to assert further legal and contractual claims remains unaffected.

Acceptance of a late delivery or service does not constitute a waiver of compensation claims. Südkabel may demand an agreed contractual penalty up to the last payment even if Südkabel has accepted the deliveries and/or services without any special reservation,

If Südkabel is in default of acceptance or payment, any claim for damages the Supplier is entitled to shall be limited to 0.2% of the delivery value per completed week, up to a maximum of 5% of the delivery value, unless the delay is due to an intentional or grossly negligent breach of duty by a legal representative or agent of Südkabel. If Südkabel is in arrears with a payment, the Supplier shall at least be entitled to a lump sum payment of EUR 40 in accordance with Section 288 of the German Civil Code (BGB). This shall apply even if the claim for payment pertains to a down payment or other instalment. This lump sum shall be set off against any damages owed, provided that the damage is the result of legal prosecution costs.

#### IV. Shipping Regulations and Despatch Notes

The shipping documents must be labelled with the reference numbers prescribed by Südkabel. Upon despatch, the Contractor shall without delay send Südkabel the despatch note. The despatch note must contain the exact description, quantity, weight (gross and net), type and packaging of the Goods or the item.

If the above-mentioned shipping documents for a delivery are not delivered on time or if information is missing in the shipping documents and despatch notes, Südkabel will store the Goods at the expense and risk of the Contractor until the complete information or the shipping documents arrive.

## **V. Prices and Terms of Payment**

The prices stated in the order are binding. The price does not include statutory VAT. The price includes all fees and taxes and all costs for production, processing, storage, packaging and delivery "free domicile", "free works" or "free construction site". Claims based on additional deliveries and/or services can only be asserted between the contracting parties after prior written agreement and after the additional deliveries and/or services have been ordered. Otherwise, additional claims in excess of the total fixed price are excluded.

Payment is due after handover and transfer of ownership of the Goods, receipt of a verifiable invoice and receipt of all contractually required documents. If early deliveries are accepted, the due date depends on the agreed delivery date. In the case of partial deliveries, the receipt of the last partial quantity shall be relevant.

If the Contractor performs services against proof, he shall furnish proof of his services by means of a list of the services performed, including the time spent, and send this to the Client.

Payment shall be made within 14 days less 3% discount or within 30 days without any deductions, in each case counting from the receipt of the invoice and the receipt of all Goods. No discount shall be deducted for work and services.

If Südkabel makes a payment before the Goods or services are handed over, the Contractor shall, at Südkabel's discretion, furnish collateral in the amount of the payment and/or transfer ownership of the Goods. Any down payments and interim payments shall not be deemed to represent an acknowledgement of the contractual conformity of the delivery or service.

## **VI. Risk**

Until the acceptance, the risk of accidental loss or accidental deterioration shall be borne by the Contractor.

## **VII. Force Majeure**

*Force majeure* is an external event that is not linked to the company and that cannot be prevented by exercising the care that can reasonably be expected. This is subject to the condition that this event could not be overcome despite all reasonable efforts and the affected party informs the other party without delay, but no later than seven (7) days after the occurrence of the event of *force majeure*.

*Force majeure* shall release the contractual partners from their performance obligations for the duration of the disruption and to the extent of its effect. The contracting parties shall without delay transmit the needed information within the scope of what can reasonably be expected and adapt their obligations to the changed circumstances in good faith. Südkabel shall be released from the obligation to accept the ordered delivery in whole or in part and may rescind the contract if the delivery has become unacceptable for Südkabel due to the delay caused by *force majeure*, but at the earliest after the end of three months following the receipt of the information pursuant to section VII. paragraph 1.

*Force majeure* or events for which the Supplier is not responsible in the above meaning include, but are not limited to, strikes or lockouts, other unrest as well as official orders, wars or political unrest, natural disasters, earthquakes, volcanic eruptions, terrorism, nuclear accidents or reactor damage, epidemics and pandemics.

## **VIII. Receipt and Acceptance**

In the ordinary course of business, the acceptance shall take place without delay upon receipt or commissioning, provided that the delivery or service is in accordance with the contract. Statutory provisions that provide for notional acceptance are excluded. In the event of excess deliveries that exceed the customary extent, the Client reserves the right to return the excess Goods at the expense of the Contractor.

Any inspection obligations of the Client shall be limited to the prompt inspection of the Goods in order to determine whether they correspond to the quantity and type ordered and whether there are any externally visible defects or transport damage. Insofar as the Client is under the obligation to report defects without delay, hidden defects may be reported within two weeks, and other defects within one week of the discovery.

## **IX. Protective Regulations**

The Supplier shall provide his deliveries and services with the utmost care with regard to execution, accident prevention and environmental protection, taking into account the latest state of science and technology, the safety regulations of the authorities and professional associations (including VDE) and his own existing knowledge as well as experience gained during the contract work. The Supplier guarantees compliance with the statutory regulations, the agreed technical specifications and other requirements.

The Supplier shall supply spare parts at reasonable terms and conditions for the period of normal technical use, but at least for a period of 10 years after the last delivery.

## **X. Warranty and Claims for Defects**

Warranty claims of Südkabel against the Supplier for material defects in quality and title shall be governed by the statutory provisions, unless otherwise regulated herein. Unless otherwise agreed, the limitation period for claims for defects is 60 months from the risk transfer. If commissioning takes place later than the acceptance, the warranty period shall begin on the day of commissioning. Notwithstanding the regulations concerning the suspension of the statute of limitations and the suspension and recommencement of time periods, the warranty period and the limitation period shall also be suspended for the duration of any operational interruptions caused by defects. The warranty period and the above-mentioned limitation period shall not apply if longer statutory limitation periods apply, especially in accordance with Section 438 (1) no. 2 (buildings and things that have been used for a building) and Section 634a (1) no. 2 (construction defects) of the German Civil Code (BGB).

Südkabel may in any case choose between rectification of the defect and new manufacture. In urgent cases or if the Contractor is in default with the supplementary performance, Südkabel may also remedy the defects itself, have them remedied or procure a replacement at the expense of the Contractor. Rectification will be deemed to have failed if two rectification attempts have been unsuccessful.

## **XI. Liability**

The Supplier shall be liable within the scope of the statutory provisions.

Insofar as the Supplier is responsible for product damage, he undertakes to indemnify Südkabel on first demand against claims for damages by third parties which may be asserted due to a product supplied by the Supplier, provided the cause lies within his sphere of control and organisation and he himself is liable in external relationships. The indemnification obligation shall also apply to all expenses necessarily incurred by Südkabel from or in connection with claims asserted by a third party, including any costs of legal representation. The Supplier shall take out insurance against these risks to a sufficient extent according to market practice.

In the event of damage due to injury to life, body or health, in the event of intent or gross negligence on the part of Südkabel, a legal representative or agent, as well as in the event of damage covered by a guarantee or warranty granted by Südkabel, Südkabel shall be liable in accordance with the statutory provisions. In the event of slight negligence, Südkabel shall only be liable for compensation of foreseeable damage that is typical of the contract and only insofar as an obligation whose due fulfilment is essential to the performance of the contract and on whose fulfilment the contractual partner could rightly rely (cardinal obligation) has been breached by Südkabel, a legal representative or an agent. Apart from this, any liability is excluded to the extent permitted by law.

The Supplier shall be responsible for all his employees and subcontractors and for all acts and omissions as if they were acts or omissions of the Contractor.

The Supplier shall furnish evidence of professional or business and product liability insurance as well as accident insurance. However, this shall not affect the Supplier's liability. The sum insured has no limiting effect on the Supplier's liability.

## **XII. Commercial Property Rights**

The Supplier guarantees that no third-party rights are infringed in connection with his delivery. Should a third party assert claims against Südkabel in this respect, the Supplier shall, upon first demand, without delay indemnify Südkabel against all resulting claims and defend Südkabel against such claims. The indemnification obligation shall also apply to all expenses necessarily incurred by Südkabel from or in connection with claims asserted by a third party. This also includes the costs of legal representation. The Supplier shall take out insurance against these risks to a sufficient extent according to market practice.

In the event of an infringement of commercial property rights, the Supplier shall, for the duration of their applicability, compensate the Client the duration for all damage incurred from this by the Client and third parties. In this case, Südkabel may also obtain from the owner of such property rights the necessary authorisation for the delivery, commissioning, use, resale, etc. of the object of delivery at the expense of the Supplier.

## **XIII. Confidentiality and Drawings**

The Supplier shall treat Südkabel's orders and all related commercial and technical details and/or other data as confidential. The use of specifications provided by Südkabel or of drawings etc. prepared by Südkabel or the Supplier on the basis of such specifications for other purposes is subject to the written consent of Südkabel.

Disclosure of the documents and information is subject to the express consent of Südkabel. The non-disclosure obligation also applies to personal data. The non-disclosure obligation shall continue to apply even after the winding up or failure of the contract. It shall expire if and insofar as the information contained in the documents provided has become general knowledge. This obligation shall also be imposed on any third parties deployed by the Supplier for the performance of the obligations resulting from the contract. In the event of a breach of these obligations, Südkabel may demand immediate surrender and claim damages.

The Supplier shall limit the disclosure of such confidential material to those of its employees, representatives or subcontractors who need to know such for the due delivery or performance.

Acceptance or approval of drawings and samples submitted by the Supplier shall not affect the sole responsibility of the Supplier.

#### **XIV. Assignment**

Rights arising from the order may only be assigned to third parties by mutual agreement. Südkabel's consent will be deemed to have been granted if the Contractor, in the ordinary course of business, has granted his supplier an extended retention of title in the ordinary course of business.

#### **XV. Termination**

The right of termination is governed by the statutory provisions.

#### **XVI. Electronic Signature**

Electronic signature shall be deemed to have the same effect as a handwritten signature on paper. The parties recognise electronic signatures made via Adobe Sign, DocuSign or similar tools or by means of a "scanned signature by authorised individuals" as sufficient and binding for the conclusion of the contract. The use of electronic signatures is also permitted for all documents related to the contract, for which the contract requires written form or which are to be signed by the parties.

#### **XVII. Miscellaneous**

The laws of the Federal Republic of Germany shall apply. The provisions of the UN Convention on Contracts for the International Sale of Goods (CISG) and legal norms that refer to another legal system shall not apply. Contract language is German, translations into other languages are not legally binding.

To be valid, any side agreements, amendments or supplements must be made in writing. This also applies to the waiver of the requirement for written form. E-mail and fax shall be deemed to satisfy the required for written form within the meaning of these General Terms and Conditions of Purchase.

The place of performance is the domicile of Südkabel. The courts of Mannheim, Germany, shall have jurisdiction over any disputes arising from or in connection with the contractual relationship between Südkabel and the Supplier, provided that the contractual partner is a merchant, a legal entity under public law or a fund under public law.

The place of performance for deliveries is the destination. The place of performance for payments is the domicile of Südkabel.

In addition, Südkabel's General Terms and Conditions (GTC), which can be accessed at any time on Südkabel's website ([www.suedkabel.de](http://www.suedkabel.de)) shall also apply.

Should individual provisions of these General Terms and Conditions of Purchase be or become invalid, this shall not affect the validity of all other provisions.