

**General Terms and Conditions of Purchasing**  
**DKV MOBILITY SERVICES HOLDING GmbH + Co. KG**

**1. General**

1.1 These terms and conditions become part of every contract with which deliveries of goods or services are commissioned by DKV MOBILITY SERVICES HOLDING GmbH + Co. KG – referred to as the “Buyer” hereinafter. Any conflicting or deviating terms of delivery or other restrictions by the supplier or service provider (jointly referred to as the “Supplier” herein after) shall not apply without requiring any objection unless the Buyer has expressly approved of these in writing or in text form in an individual case.

1.2 Other conditions, amendments and ancillary agreements shall only be applicable provided the Buyer has approved of this in writing or in text form.

**2. Offer**

The Supplier shall precisely observe the inquiry in his offer and, in the event of deviations, he shall expressly point out such. Offers (including cost estimates) by the Supplier shall be provided free of charge in every case and shall not create any liability for the Buyer issuing the inquiry.

**3. Order**

Orders and modifications of orders shall be issued in writing or in text form. The content of verbal or telephone conversations shall only be binding provided it is confirmed in writing or in text form. Every order or modification of an order shall be confirmed by the Supplier in writing or in text form and treated separately in the entire correspondence. The following has to be specified in all documents: ordering department with name of employee, full order number, date of order, project designation and cost centre.

**4. Delivery period, Execution of contract**

4.1 Delivery dates or delivery periods agreed on are binding. A delivery period agreed on shall begin on the day on which the order is placed. Receipt of the goods by the Buyer or by the receiving station designated by the Buyer shall be decisive with regard to compliance with the delivery date or the delivery period.

4.2 As soon as the Supplier has to assume that he will not be able to fulfil his contractual obligations in their entirety or in part or that he will not be able to fulfil these in due time, he shall inform the Buyer of this fact forthwith by specifying the reasons and the probable duration of the delay in writing or in text form. If the Supplier fails to issue this message, he cannot invoke the obstacle towards the Buyer.

4.3 In case the Supplier does not perform as of the delivery date agreed on or within a delivery period agreed on, the Buyer shall be entitled to the statutory rights arising from the default. In as far as the Supplier exceeds delivery dates or delivery periods agreed on by more than one month, the Buyer can also demand compensation instead of performance without setting a deadline in accordance with Art. 280 Paragraph 3, 281 BGB [German Civil Code].

4.4 In as far as liquidated damages are agreed between the Buyer and the Supplier in the event of non-performance (Art. 340 BGB) or of inappropriate performance (Art. 341 BGB), a resignation from the contract on grounds of non-performance or performance not in accordance with the contract pursuant to Art. 323 BGB does not lead to the forfeiture of the liquidated damages.

Acceptance of the service owed by the Supplier is always effected subject to the proviso of the assertion of a possible claim to liquidated damages in accordance with Art. 341 Paragraph 3 BGB.

4.5 The Supplier may only employ sub-suppliers for the purpose of the execution of the order after a prior written approval or approval in text form has been obtained from the Buyer.

**5. Notice of defects and liability**

5.1 The Supplier shall be responsible with regard to the fact that the delivery item does not have any material defects or defects in title affecting its value or its use according to Art. 434 ff. BGB and complies with the conditions specified in the order, the generally approved and respectively valid state of the art, the specifications provided by the Supplier as well as the latest statutory, official and other guidelines and provisions, in particular, the Machine Safety Code, the safety requirements, the safety-at-work and accident prevention rules and the requirements of environmental protection.

Any claims by the Buyer under a guarantee assumed by the Supplier shall not be affected.

5.2 The Supplier provides a guarantee with regard to the fact that the delivery and use of the delivery item by the Buyer does not violate any third-party protective rights within the country or abroad. The Supplier undertakes to indemnify the Buyer against all costs and claims by third parties arising from an alleged violation of (protective) rights and to reimburse any possible expenses incurred by the Buyer and to carry out all litigations arising from this or to join a possible legal dispute with regard to this between the Buyer and third parties in order to support the Buyer at the Buyer's request.

5.3 The Buyer is entitled to the statutory warranty rights with regard to material defects and defects in title without any reductions.

The Buyer shall check goods delivered for any deviations in quality and quantity within a suitable period of time. A notice of defect by the Buyer is effected in due time in as far as it is received within a period of 10 business days from receipt of the goods delivered by the Supplier. Notices of defect with regard to hidden defects can also be issued within a period of 10 business days as of the time of their discovery. Such a hidden defect is considered discovered if the good delivered was checked after the emergence of the first complaints and if the employee of the purchasing department in charge of contract processing was informed of the defect.

5.4 If the contractor chooses to remedy the defect in the context of subsequent performance in accordance with Art. 439 BGB and if the Supplier defaults with regard to remedying of the defect, the Buyer shall be entitled to remedy the defect himself or have the defect remedied by third parties at the Supplier's expense and risk regardless of the Supplier's further liability for defects.

In urgent cases, the Buyer is also entitled to remedy the defect without a prior notice of defect and without setting of a deadline for remedying of the defect at the Supplier's expense and risk and regardless of the Supplier's further liability for defects.

5.5 The statutory rules regarding the limitation of rights shall apply unless the parties agree on an extension of such. A notice of defect shall extend the period of limitation by the period of time from the notice of the defect and its removal. If the delivery item is replaced in its entirety, the period of limitation shall recommence. In case it is replaced in part, the new period of limitation shall apply to the new parts. It is assumed that a defect already existed at the time of the transfer of risk if the defect in question materialises during the period of limitation.

5.6 The Supplier's liability for defects also extends to the parts or services produced or delivered by sub-suppliers.

5.7 Until their replacement the items with regard to which a complaint is issued under the liability for defects shall remain at the Buyer's disposal and become the property of the Supplier upon their replacement.

5.8 If the delivery item has to be accepted by the Buyer within the meaning of Art. 640 BGB, such acceptance shall be effected subject to the proviso of all claims with regard to defects even if the Buyer does not expressly reserve claims on grounds of defects on account of defects known at the time of acceptance upon acceptance.

5.9 The Supplier indemnifies the Buyer with regard to claims under the producer's liability and the product liability law in as far as the Supplier or its sub-supplier has caused the product defect causing the liability.

5.10 Apart from this, the Supplier shall be liable in accordance with the statutory provisions. Art. 478, 479 BGB shall also apply in case the Buyer does not deliver the goods supplied to consumers but to entrepreneurs and in case the relationship between the Buyer and its customer cannot be qualified as a sale of consumer goods for this reason.

## **6. Insurances**

6.1 The Supplier shall take out a sufficient third-party liability insurance for cases of damage caused by the Supplier, his employees or agents through services performed, work or goods delivered at its expense. Evidence of the sum insured per case of damage shall be furnished to the Buyer upon request.

6.2 The Supplier assumes the risk with regard to his own property contributed for assembly and maintenance activities, inspections and repairs, etc. Any machines and devices, etc. provided to the Buyer as a loan shall be insured by said party against the usual risks. Any liability of the Buyer with regard to the loss of the machines and devices, etc. provided or with regard to damage to such shall be excluded – with the exception of premeditation or gross negligence.

## **7. Provisions regarding shipment, transfer of risk**

7.1 The Supplier shall submit a detailed shipping note for every individual shipment separately from the goods and the invoice on the day of shipment. The delivery note and the packing slip shall be enclosed with the shipment. The Supplier shall select the most cost-effective and suitable form of transport for the Buyer and consider all nationally and internationally valid provisions with regard to packing and shipment. In all shipment notes, delivery notes, packing slips, bills of lading, invoices and on the outer packing the order reference and the information on the receiving station specified by the Buyer shall be provided.

7.2 The delivery item is transported free the receiving station specified by the Buyer at the Supplier's risk. The risk shall only be transferred to the Buyer after unloading. This shall not apply in the event that the Buyer prescribes the transport company or carries out the transport on his own.

Upon the transfer of risk, ownership is also transferred to the Buyer.

7.3 All shipments which cannot be accepted on account of a non-compliance with these provisions shall be stored at the Supplier's expense and risk. The Buyer is entitled to ascertain the content and condition of such shipments.

7.4 The Buyer shall be entitled to return deliveries that do not comply with the requirements of the order and excess quantities delivered at the Supplier's expense and risk at his discretion.

## **8. Prices**

8.1 The remuneration as per the order is a binding fixed price and comprises all services to be provided by the supplier, including all costs, such as travelling expenses, expenses, packing, loading and unloading, transport, insurance, customs and taxes (with the exception of value-added tax which has to be shown separately). Additional claims shall be excluded.

8.2 Should the Supplier reduce its prices during the period between the order and the delivery or improve conditions, the prices and conditions valid on the day of the delivery shall apply.

## **9. Invoice and payment**

9.1 Invoices have to correspond to the order in terms of expression, sequence of the text and prices. Any additional and/or reduced services shall be listed separately in the invoice.

9.2 Payment shall be effected at the Buyer's discretion without any deductions after 30 days after receipt of the invoice or with a cash discount of 3% percent after 14 days subject to the precondition of full delivery.

9.3 Payment terms shall commence at the time agreed on, however, at the earliest from the time of receipt of the goods and of the invoice. Payment terms shall only commence if all requirements put to invoicing and the shipment of goods have been fulfilled by the Supplier. Otherwise, the payment terms shall be extended by the period of time of processing caused by the provisions which have not been complied with.

9.4 In case of defective performance, the Buyer shall be entitled to refuse payment until proper performance has been effected.

9.5 Payment does not constitute any acceptance of conditions or prices. The time of payment shall not have an impact on the Supplier's liability for defects and the Buyer's right to issue complaints.

## **10. Assignment and offsetting**

10.1 Without the Buyer's prior written approval the Supplier shall not be entitled to assign its claims towards the Buyer or to have such collected by third parties. The Buyer's approval is considered granted if the Supplier has agreed an extended reservation of ownership with his suppliers in the ordinary course of business.

10.2 The Supplier is only entitled effect offsetting with uncontested claims or claims which have been established in a legally effective manner. This shall apply accordingly with regard to the assertion of rights of retention.

10.3 The Buyer is entitled to transfer all rights and obligations under the contractual relationship with the Supplier to an affiliated company within the meaning of Art. 15 AktG [German Companies Act].

## **11. Documents**

11.1 All drawings, norms, diagrams, models, charts, photographs, layout patterns and other documents or documentations – regardless of whether such are provided on data carriers, in a printed form or as material for the preparation of printing or for printing, which is provided to the Supplier by the Buyer for the purposes of the production of the delivery item shall remain the Buyer's property. The documents created by the Supplier in accordance with information provided by the Buyer shall become the property of the Buyer at the latest upon their payment and may not be used by the Supplier for other purposes or reproduced by the Supplier or made accessible to third parties. Upon request, they shall be surrendered to the Buyer along with all copies and reproductions. The Buyer reserves the industrial property rights in all documents submitted to the Supplier. The Supplier shall submit all the required documents which are necessary for a discussion of the delivery item to the Buyer. Such a discussion or other involvement of the Buyer exclusively lies within the scope of responsibility of the Supplier and shall not release said party from a possible liability for defects or his other obligations.

11.2 Documents of all kinds which the Buyer needs for the use, installation, assembly, processing, storage, operation, inspection, repair and maintenance of the delivery item shall be provided by the Supplier free of charge in due time and without a request to this end.

## **12. Items**

Moulds, models, tools and films, etc. which were produced by the Supplier for the execution of the order shall become the Buyer's property upon their payment even if they remain in the Supplier's possession. Upon request the Supplier shall surrender these items.

## **13. Rights of control**

The Buyer shall be entitled to check all relevant documents on the Supplier's obligations under an order or on payments requested by the Supplier in the framework of an order with regard to which the Supplier has power of control or to have such checked by his agents at adequate times. The Supplier shall be obliged to retain all relevant documents referring to the order for a period of two years after the conclusion of the deliveries or services resulting from the order.

## **14. Confidentiality**

14.1 The Supplier shall consider the inquiry, the order, the relevant work activities as well as all other commercial and technical details which are not obvious and of which he learns in the context of the business relationship as a business secret and, accordingly, treat such as confidential – also after the period of the execution of the order. Employees and agents of the Supplier as well as sub-suppliers and their employees shall be subject to a corresponding obligation.

14.2 It shall only be permitted to refer to the business connection with the Buyer in information and advertising material with the Buyer's express written approval.

## **15. Final provisions**

15.1 The Supplier is liable for cases of damage and shall defray the expenses which the Buyer incurs on account of the non-compliance with these terms of purchasing. Moreover, he is also responsible for compliance with these conditions on the part of his sub-suppliers.

15.2 In the event that individual provisions of these terms of purchasing are or should become ineffective or unenforceable or in the event of a gap in the provisions, this shall not affect the validity of the remaining provisions. The parties undertake to replace such with an adequate provision corresponding as closely as possible to the intended commercial success.

15.3 These conditions are governed by German law to the exclusion of the rules of international private law. The application of the UN Convention on the International Sale of Goods of 11 April 1980, which took effect on 01 January 1991, is excluded. Standard commercial terms shall be interpreted in accordance with the Incoterms.

15.4 Unless otherwise agreed in writing, the Buyer's registered offices shall be the legal venue.

15.5 In the event that the Supplier is a merchant, legal entity under public law or a special fund under public law, the Buyer's registered offices shall be the legal venue. However, the Buyer is also entitled to sue the Supplier at his place of residence or registered offices. Statutory provisions regarding exclusive competences shall not be affected.

#### **Special conditions regarding work and services**

The provisions above shall apply mutatis mutandis and be supplemented with the following provisions with regard to work and services, including assembly activities and maintenance activities, etc.

#### **16. Changes**

Until the conclusion of the work or services the Buyer can request changes. The Supplier shall carry out changed services in as far as such are not unacceptable in the framework of his operating performance. The remuneration and the delivery periods shall be adjusted if required. If this becomes necessary in the Supplier's opinion, he shall request such a measure within a period of 14 days. If an approval by the Buyer is not issued in writing or in text form within a period of a further 14 days, the change of the order is considered not granted.

#### **17. Execution of orders**

The Buyer can terminate the contract in its entirety or in part at all times. In the event of a termination, the Buyer shall inform the Seller with regard to the question of which work activities already begun still have to be concluded. The Supplier will carry out these work activities in accordance with the conditions of the contract.

#### **18. Rights and property rights in the work results**

18.1 In as far as legally permissible, the Buyer shall have the rights to which the Supplier is entitled as the originator in place of the Supplier. Upon their creation or processing all rights of use and exploitation rights, industrial property rights, legal positions resembling property rights and the property in all work results created in the framework of the order shall be transferred to the Buyer. The Buyer shall be exclusively and irrevocably entitled to these without any further remuneration and without any restrictions in terms of region, time and contents and they can be freely transferred by the Buyer without the Supplier's approval. The Buyer shall, in particular, be entitled to process, adjust or change the work results without the Supplier's approval, to grant sub-licences and to register industrial property rights with regard to the work results. Work which is provided by the Supplier, his employees or sub-suppliers in the framework of an order and is specifically ordered or commissioned by the Buyer is considered "work made for hire". The Supplier's right to be named shall be excluded unless otherwise agreed.

18.2 In the event that the work results violate third-party property rights in deviation from Section 5.2 and in the event that the Buyer is banned from using the work results in their entirety or in part for this reason, the Supplier shall, at the Buyer's choice and at his own expense:

- a) procure the right to use the work results for the Buyer or
- b) design the work results so as to be free from protective rights or
- c) replace the work results with other equivalent results which do not violate any protective rights or
- d) refund the fee paid by the Buyer for the work results and compensate the expenses and damage connected with this.

#### **19. Social insurance**

19.1 The Supplier assures that he does not exclusively work for the Buyer and that he does not generate the predominant share of his income from this work, that he does not exclusively employ members of staff that are exempt from the social insurance obligations or family members and that he operates on the market as an entrepreneur. Upon a request to this end by the Buyer the Supplier shall furnish evidence of this.

19.2 In the event that social insurance contributions (regardless of the type of such) have to be paid by the Buyer because of the order, the Supplier shall exclusively assume these in the context of the relationship between the parties.