

## 1 Scope

1.1 All contracts concluded between the companies of the [Arvato Systems Group](#) ("Client") and the Contractor for the "**Purchase of Movable Goods and Merchandise**" shall be governed exclusively by these General Conditions of Purchase ("GCP").

1.2 Any terms and conditions of the Contractor that contradict or deviate from the user of these terms and conditions are expressly not recognized. General terms and conditions of the Contractor shall not become part of the contract even if the Client does not expressly object to them.

1.3 These GCP shall only apply to companies within the meaning of § 14 para. 1 BGB (German Civil Code); they shall also be agreed for all future contracts with the Contractor.

1.4 Inclusion of the terms and conditions of the Contractor or third parties through conclusive action is excluded. In particular, the acceptance of deliveries or services as well as payment by the Client shall not make the Contractor's terms and conditions of business the subject of this agreement.

## 2 Object of the service

The subject of this contract is the purchase of movable goods and merchandise including the associated materials, in particular the documentation (user manuals etc.), as well as the provision of other services by the Contractor in connection with the purchase in accordance with the order. The intended use of the movable goods and commodities results from the functional and product description.

## 3 Principles of service provision

3.1 The Contractor shall provide the contractually owed services in accordance with the state of the art at the time of conclusion of the contract and by personnel qualified to provide the agreed services.

3.2 Contact persons of the contracting parties are exclusively the responsible contact persons named in the contract. Furthermore, the Client shall be entitled to effectively make declarations with regard to the services to be rendered by the Contractor not only to the responsible contact person named by the Contractor but also to his representative.

3.3 The Client may demand the replacement of a person employed by the Contractor for the performance of the contract if this person has breached contractual obligations or does not possess the necessary expertise. The costs arising from the replacement shall be borne by the Contractor.

3.4 The involvement of third parties as subcontractors of the Contractor requires the prior consent of the Client in text form.

3.5 All dates specified by the Client are always binding.

## 4 Placing of orders

4.1 Only the content of the order is decisive for the provision of services. Oral subsidiary agreements have not been made and only become effective upon confirmation by the Client.

4.2 The Contractor is obliged to accept the order within a period of 14 days. The period begins with receipt of the order signed in text form. An acceptance declared after the expiry of the period shall be deemed to be a new offer. This can only become legally effective if the Client does not object within 14 days.

4.3 Cost estimates, the preparation of quotations, the preparation of specifications, project planning documents, plans, drawings and models or other related elaborations or similar are only subject to a separate agreement.

## 5 Delivery

5.1 The Contractor shall deliver to the Client the movable goods or merchandise designated in the order, together with the associated documentation. Furthermore, the Contractor grants the Client all rights of use necessary for the purpose of the contract.

5.2 The movable goods or merchandise shall be delivered free of charge (including freight and customs duty) in customary packaging to the delivery address specified in the order. If no delivery address is specified, delivery shall be made to the registered office of the Client.

5.3 The movable goods or merchandise are bindingly to be delivered within the delivery time and on the delivery date stated in the order. Deliveries are made without reservation of title.

5.4 The transfer of risk takes place when the movable goods or merchandise are handed over free of defects at the place of delivery according to section 5.2.

5.5 The packaging is to be taken back by the Contractor free of charge. The Contractor is obliged to take out at his own expense the insurance necessary for transport to the contractually agreed place of delivery in accordance with section 5.2. The risk of transport damage shall be borne by the Contractor.

5.6 The Contractor owes the delivery of a printed or at least printable, detailed user documentation as well as other manuals in German or, if not available, in English. The Contractor shall provide a replacement free of charge in the event that the Client no longer has an up-to-date version of the aforementioned documents due to loss, accidental deletion or similar events.

5.7 For a period of 5 years from the transfer of risk, the Contractor is obliged to supply spare parts for the movable goods or merchandise in return for remuneration at market rates.

5.8 The Contractor shall transfer any claims arising from a manufacturer's warranty - insofar as the Contractor offers this generally - to the Client free of charge. Insofar as the Contractor himself is the manufacturer of the movable goods or merchandise, the Contractor shall offer the Principal a manufacturer's guarantee customary in the industry free of charge.

## 6 Partial service

6.1 In the case of partial performance, the Client is entitled to compensation instead of the entire performance, provided that the Client is not interested in the partial performance. Sections 280 ff. BGB shall apply.

6.2 Partial services are not accepted as contractual services. The return shipment is at the expense of the Contractor. Until the return the goods shall be stored at the risk and expense of the Contractor.

## 7 Principles of personnel deployment

7.1 The Contractor shall provide its services independently or with its own or third-party personnel (hereinafter referred to as "Personnel").

7.2 The Client is entitled to demand the replacement of the personnel employed by the Contractor, with justification,

which may be provided in text form, if the Contractor has repeatedly breached contractual obligations or if there is any other important reason in the personnel employed which prevents cooperation between the Client and the Contractor.

7.3 If the Contractor uses external personnel (such as freelancers or temporary workers), the Client may also demand the replacement of the external personnel with justification, if a further deployment is not reasonable for the Client. As the main contractual obligation, the Contractor shall ensure and control on its own responsibility that any external specialists or subContractors it employs are deployed and controlled in accordance with the statutory regulations. At the request of the Client, the Contractor shall provide the Client with documentation of the controls carried out and confirm the correctness of the controls in text form. Inconsistencies or missing proofs of confirmation entitle the Client to immediate extraordinary termination of the contractual relationship.

7.4 The Contractor must comply with the Client's request for the exchange of personnel without delay. Any additional expenses arising from personnel expansion or personnel changes shall be borne by the Contractor.

7.5 In the individual contract, the Contractor designates its own project manager as central contact person. This person controls the entire project work on the Contractor's side. On the other hand, the Client provides its own project manager as the central contact person for the entire project management. The project manager controls the entire project work on the part of the Client.

7.6 Under no circumstances will the Contractor's personnel be integrated into the Client's business. The Contractor shall remain solely responsible for such personnel to the full extent. There shall be no division of labour between the staff of the contracting authority and the staff of the supplier. The personnel employed by the Contractor shall not be included in the internal holiday planning and representation arrangements of the Client. Periods of deployment or service times are agreed exclusively with the project manager contractually nominated by the Contractor. The Contractor's personnel do not take part in internal meetings and events of the Client with company-specific content and events (for example, presentation round, company party). The only possible participation is in project and technical meetings which are directly connected with the concretization of the contractual service, the provision of services or the acceptance of services. The Contractor as well as the personnel employed by him use his own operating resources, unless an objective reason makes the use of the Client's operating resources necessary (e.g. IT security, data protection).

7.7 No project-related coordination, instructions or comparable communication between the Contractor's personnel on duty and the Client's personnel takes place without the participation of the responsible named project managers. The Contractor shall involve the Client's project manager for binding information and for all questions arising from the performance of the contract. He shall provide information and make decisions or communicate them without delay. Decisions and information of other persons shall only be binding on the Contractor and his personnel if they have been confirmed in writing by the Client's project manager.

7.8 In the event of any complaints about defects in the performance of the Contractor, the Contractor's project manager shall in principle be the sole contact person for the Client's project manager. No complaints about the performance of the Contractor shall be made to the Contractor's other personnel.

7.9 The Contractor shall ensure that all personnel deployed by it has taken note of the regulations regarding confidentiality, data protection, plant security, the information sheet on the Federal Data Protection Act, the flyer for emergencies as well as the Client's information security guidelines and complies with the regulations accordingly.

7.10 Upon request, the Contractor shall inform the Client at a reasonable distance about the status of the project and compliance with the contractual requirements and shall provide interim results. In addition, the Client may request to inspect the relevant documents and extracts thereof.

## **8 Personnel deployment for end Clients**

8.1 If the Contractor provides services to an end Client of the Client within the scope of this Agreement, the Contractor and the Client shall each remain solely responsible for their personnel. This means that neither the Client's personnel nor the Contractor's personnel will be integrated into the operation of the end Client. Furthermore, there is also no cooperation based on the division of labour and no direct communication between the personnel of the Contractor, the Client and the end Client.

8.2 Any project-related coordination, instruction or comparable communication with the end Client shall take place solely via the responsible named project manager of the Client. This person is the exclusive contact person for both the end Client and the Contractor's project manager with regard to the services provided at the Client's end Client within the scope of this Agreement. In all other respects, the above provisions of Sections 7.5 to 7.8 shall apply mutatis mutandis.

## **9 Minimum wage**

9.1 The Contractor is obliged to pay his employees the statutory minimum wage. At the request of the Client, the Contractor shall prove to the Client that this obligation has been fulfilled by submitting suitable documents (in particular documents in accordance with Section 17 (1) MiLoG, clearance certificate from the competent social security or holiday fund, etc.) within 14 days of termination of the present contractual relationship for the entire duration of the contract up to six months.

9.2 The Contractor shall indemnify the Client from all claims of third parties (in particular employees of the Contractor, Client's Clients, Federal Employment Agency) in connection with the breach of the obligation to pay the statutory minimum wage on first demand.

9.3 The Contractor is obliged to oblige any subContractor to pay the statutory minimum wage and release the Client from work to the same extent as the Contractor itself is obliged to do under Clauses 9.1 and 9.2. If the subContractor in turn uses subContractors, the Contractor shall ensure that all subContractors are also obligated accordingly.

9.4 The Contractor is liable to the Client for all claims of third parties arising from the breach of the obligation to pay the statutory minimum wage by subContractors.

## **10 Compensation**

10.1 All prices are quoted in €, exclusive indirect taxes and include all incidental expenses and include all incidental expenses, in particular travel expenses, travel times, transport costs and customs duties.

10.2 In case of wrong, bad or partial deliveries, the Client is entitled to refuse payment until proper fulfilment.

10.3 Insofar as the Contractor is obliged to provide a warranty to the Client, the contractually owed services shall

be provided free of charge for the duration of the warranty period.

10.4 Unless otherwise agreed, the remuneration shall be due for payment 30 days after receipt of a verifiable invoice, but in principle only after confirmation by the Client that the services contractually owed by the Contractor have been rendered in full. The invoice shall contain the order number of the Client as well as, if no lump sum remuneration has been agreed upon, details of the performance of the services (including time, place, content of the delivery).

10.5 In the event of payment within 14 days of receipt of the verifiable invoice, the Contractor shall grant the Client a discount of 3% on the invoice amount.

10.6 The Contractor is only entitled to withhold payments or to offset them against counterclaims if the claims asserted by the Contractor from the same legal relationship have either been acknowledged by the Client at least in writing or a legally binding decision has been made in legal proceedings. The assignment of claims of the Contractor against the Client to third parties is excluded.

10.7 If either party is required by applicable law to withhold taxes on the services received, this shall not constitute a breach of this Agreement and shall not relieve the parties of their obligations under this Agreement. Both parties shall each have the right and obligation to withhold and remit taxes in the amount required by law. The Parties shall provide each other with reasonable assistance in applying for an exemption based on the relevant DTA and in accordance with the regulations of the country.

## 11 Default

11.1 In the event of default, the Client is entitled to the statutory claims. In addition, in the event of default on the part of the Contractor, the Client shall be entitled to demand a contractual penalty of 0.5% of the total remuneration per commenced calendar day of default.

11.2 If the Contractor exceeds an agreed delivery date by more than 7 calendar days, the Client is entitled to withdraw from the contract immediately.

11.3 The contractual penalty can be claimed until the final payment of the remuneration.

11.4 A contractual penalty paid by the Contractor due to delay shall be set off against any further claim for damages.

11.5 Further claims of the Client in case of delay remain unaffected.

## 12 Defects (notification of defects) / Warranty

12.1 § Section 377 of the German Commercial Code (HGB) shall apply in such a way that the Client is obliged to give notice of defects within one week of acceptance, insofar as a defect was identifiable in the course of random checks of reasonable scope. Visible transport damage shall be reported immediately, at the latest within one week. Payment of the remuneration does not constitute approval of the service.

12.2 The Client is entitled to the full statutory warranty claims.

12.3 The warranty period shall begin to run again if the defect is rectified.

12.4 During the warranty period, the Contractor shall remedy defects without delay.

## 13 Force majeure

If the Contractor is unable to provide the service on time due to force majeure (war, riots, strikes, lock-outs, fire and

floods), the Client may choose to withdraw from the contract instead of unilaterally extending the deadline for providing the service in accordance with the contract.

## 14 Liability

14.1 If the Client demands compensation for damages instead of performance, the claim for performance shall not lapse until the Contractor has paid the compensation.

14.2 In all other respects the statutory provisions shall apply.

## 15 Third-party rights

Insofar as the movable goods or merchandise delivered by the Contractor violate the rights of third parties and this at least slightly negligent violation of rights is based on a service provided by the Contractor, the Contractor undertakes to indemnify the Client from all claims of third parties raised thereupon as well as from all costs associated with the legal defence, including the costs for an adequate licence acquisition, upon first request.

## 16 Confidentiality

16.1 The Contractor undertakes to keep secret and to maintain secrecy about all information (e.g. business and trade secrets, data, technical and commercial information of any kind) which it has come to know about the Client and the order within the scope of this contractual relationship, whether verbally, in writing, in electronic or any other form, even beyond the duration of the contractual relationship, and to maintain silence about this. The information must be stored in such a way that any misuse is excluded.

16.2 Furthermore, the Contractor guarantees that its employees, consultants and other vicarious agents who are entrusted with the execution of the contract and who receive information in accordance with Section 16.1 are bound in writing to secrecy.

## 17 Privacy and security

17.1 The Contractor shall ensure that all persons entrusted with the performance of this contract observe the statutory provisions on data protection and are demonstrably obliged to maintain data secrecy in accordance with the rules on data protection.

17.2 In the case of order processing, a separate agreement shall be concluded between the contracting parties.

17.3 The Client expressly does not give his consent to the use of the contact data for advertising purposes. Any disclosure, transmission or other use of the Client's contact data is expressly prohibited.

17.4 The Contractor undertakes to take all necessary measures to ensure information and operational safety and quality assurance at the Client's premises during the performance of the contract. The relevant guidelines and information sheets of the Client shall apply, which shall be made available to the Contractor at its request.

## 18 Insurance

18.1 The Contractor undertakes to maintain a business liability insurance policy throughout the duration of the contract, the scope and amount of which is appropriate to its liability risks under this contract.

18.2 Upon request of the Client, the Contractor shall provide evidence of the conclusion and existence of the insurance policy and the payment of the corresponding premiums.

## 19 Audit

19.1 The Client is entitled, either himself or through an appointed third party, to carry out an audit once a year, after prior notice and during business hours, at the Contractor's premises for the purpose of checking the Contractor's compliance with the contractual obligations.

19.2 The confidentiality of the Contractor's information shall be respected and appropriate security provisions shall be taken into account.

19.3 The Contractor is obliged to grant access to all systems, books, records, business processes and facilities that the Client requires in order to conduct a proper and thorough inspection. The Contractor shall provide the necessary cooperation in such an inspection.

## **20 VAT**

20.1 All prices are quoted in €, exclusive indirect taxes if applicable

## **21 Withholding tax**

21.1 If either party is required by applicable law to withhold taxes on the services received, this shall not constitute a breach of this Agreement and shall not relieve the parties of their obligations under this Agreement. Both parties shall each have the right and obligation to withhold and remit taxes in the amount required by law. The Parties shall provide each other with reasonable assistance in applying for an exemption based on the relevant DTA and in accordance with the regulations of the country.

## **22 Final provisions**

22.1 This agreement can only be transferred to third parties with the consent of the other party in text form using an electronic signature (in accordance with eIDAS requirements). On the part of the Client, third parties within the meaning of this clause are not the companies affiliated with Bertelsmann SE & Co KGaA, Gütersloh, group companies (§§ 15 ff. AktG) and Bertelsmann SE & Co KGaA itself.

22.2 The Contractor is not entitled to name the Client, details of the order or the Client's end Client as a reference without the Client's express consent.

22.3 The contractual penalties referred to in these contractual conditions may not exceed 5% of the total contract value.

22.4 The Contractor acknowledges the provisions of the [Supplier Code of Conduct of Bertelsmann SE & Co KGaA](#) and undertakes to act in accordance with them.

22.5 Changes, additions and the cancellation of this contract require at least the text form by means of electronic signature (according to eIDAS requirements). This means that an e-mail format does not meet these requirements. The same applies to the cancellation of the written form requirement. All design rights must always be asserted with a signature variant that is at least eIDAS-compliant.

22.6 The existence of this contract is not affected by the invalidity of individual provisions or by loopholes in the regulations. An ineffective provision or a loophole shall be replaced or filled by a valid provision which corresponds as far as possible to the meaning and purpose of the omitted provision or the remaining provisions of this contract.

22.7 The law of the Federal Republic of Germany shall apply, excluding the UN Convention on Contracts for the International Sale of Goods. The place of jurisdiction for all disputes arising out of or in connection with this contract is the court which is competent for the Client in terms of subject matter and location.