

# GENERAL PURCHASING TERMS AND CONDITIONS 2017

## GENERAL PROVISIONS

- "TPCA" denotes Toyota Peugeot Citroën Automobile Czech, s.r.o., with registered address at Na Hradbách 126, 280 02 Kolín, Czech Republic, listed in the Commercial Register maintained by the Municipal Court in Prague, Section C, Entry 86913, Reg. No. 26513528, or its successor organizations as the case may be.
  - The present General Purchasing Terms and Conditions of TPCA (hereinafter also referred to "GPTC") regulate the rights and obligations established by virtue of the legal relationships between TPCA and the Suppliers, concerning the latter's Supplies for TPCA. The present GPTC apply to all contractual relationships between TPCA and the Supplier. By accepting orders and/or entering into any other agreements on the Supplies, the Supplier agrees to be subject to the present GPTC. TPCA may modify the present GPTC if being understood that the change must be notified to the Supplier in writing at the latest within 15 calendar days before the modified GPTC come into force; unless the Supplier expresses their disapproval of the GPTC modification within seven business days of receiving the aforementioned notification from TPCA, they shall be deemed to have approved of the modified GPTC.
  - "Supplies" denote all goods, services or other supplies to be sold or carried out based on
    - an order placed by TPCA, which has been duly accepted by the Supplier of the Supplies (hereinafter also referred to as the "Supplier"), or
    - other agreements entered into between TPCA and the Supplier.
- The term Supplies further applies to repairs or replacement of the Supplies in the form of goods unless stipulated otherwise hereunder.
- "Order Acceptance" denotes either a written order confirmation furnished by sending its dated and signed copy to TPCA purchasing officer within five days of receipt of the order by the Supplier, or the Supplies against such orders, even if only in part, where the dated and signed copy of the order was not sent back to the purchasing officer on time.
  - "Another Agreement" denotes any other contractual arrangements that those resulting out of Order Acceptance by the Supplier.

## PROPER PROVISION OF THE SUPPLIES

- The delivery terms for the Supplies are contractual and shall be indicated in the accepted TPCA order, Another Agreement or in annexes to the foregoing documents. The delivery and other terms laid down in the Supplier accepted order or Another Agreement shall be binding upon the Supplier.
- The goods supplied to TPCA by the Supplier must meet the quantity, quality and workmanship requirements stipulated in the accepted order or Another Agreement. Unless no quality and workmanship requirements have been stipulated, the goods supplied by the Supplier shall be at such a quality and workmanship level that they are fit for the purpose clearly implied by the accepted order or Another Agreement, or, else, fit for any other usual purpose of the goods. Where the quality or workmanship of the Supplies is determined using a sample or model provided, the quality or workmanship of the goods must correspond those of the sample or model. Where the quality or workmanship stipulated in the accepted order or Another Agreement is different from that of the sample or model, the quality and workmanship of the sample or model applies. Where an accepted order or Another Agreement on one hand, and a sample or a model, on the other, stipulate different, but no mutually exclusive provisions for quality and workmanship, the goods supplied must correspond to the accepted order or Another Agreement and the sample or model at the same time.
- The Supplier shall provide TPCA with all background documents required for the takeover and use of the Supplies in Czech. The said documents shall be provided at the time and place defined in the accepted order or Another Agreement, or else, while furnishing the Supplies to TPCA at the agreed upon place. If the Supplier hands such documents over to TPCA before the stipulated date, they may remove any errors in the documents before the stipulated date unless by doing so they would cause unreasonable problems or expenses on the part of TPCA. This shall in no way affect the right to claim compensation for liquidated damages.
- The documents that are required for the goods in transport to be taken over or freely disposed of, or, for imports, for the goods to be cleared, the Supplier shall be obligated to hand the documents over to TPCA's authorized person within the TPCA site at Industrial Park, Ověčáry 280, 280 02 Kolín, or, send them without undue delay to the address of TPCA site at Industrial Park, Ověčáry 280, 280 02 Kolín. The Supplier shall hand the said documents cover to TPCA in a timely fashion so that TPCA could freely hand the goods or receive the goods in transport once it reaches the destination of the Supplies and clear the goods without undue delay.
- If the Supplier occurs in default of the Supplies, the TPCA shall have the right to withdraw from the contract concluded with the Supplier but furnishing a written notice to the Supplier withdrawing the accepted order or its parts or withdrawing from Another Agreement; such a withdrawal of an accepted order or withdrawal from Another Agreement must be sent without undue delay to the Supplier's registered address and, at once, by email provided TPCA is duly aware of the Supplier's email address. Unless TPCA withdraws an accepted order or withdraws from Another Agreement by applying the mechanism under the foregoing clause, it shall have the right to claim a contractual penalty for the default of the Supplies amounting to 1 % of the value of the ordered Supplies, excluding the VAT, for each begun day of the default until the due provision of the Supplies; this shall in no way affect TPCA's claim to any liquidated damages.
- The place of the Supplies is the site of TPCA, Industrial Park, Ověčáry 280, 280 02 Kolín, Czech Republic, unless the parties agree otherwise. Where the Supplies involve goods, the packaging of such goods must indicate TPCA's contact person or the person authorized to take the goods over, which TPCA indicated in the accepted order or Another Agreement. Before entering the premises of the TPCA it is necessary to know the number of the relevant order and to input this number into the terminal at the automatic-gatehouse.
- Unless TPCA's order stipulates the manner, in which the Supplies in the form of the goods are to be packed, the Supplier shall be obligated to pack the goods as is customary; if there are no customary packaging method available, then the Supplier shall employ such a packaging method as is necessary for the goods to be maintained and protected so as to prevent any damage. The Supplier shall employ the same methods for packing goods for its transport to TPCA.
- The Supplier shall be held accountable for any damage to the goods in transport up until its handover to TPCA at the Supply delivery site, by the Supplier or forwarder.
- The Supplies shall not be regarded as duly delivered if the Supplier, their staff or persons cooperating with the Supplier in any other way to submit to all precautions and follow whatever instructions given by TPCA, its staff or persons cooperating with TPCA in any other way, on entering the TPCA site (see the Article on "CONFIDENTIALITY", paragraph 7 and Article "SUPPLIER'S STAFF").
- The Supplier acknowledges that for the implementation of some activities in the area of TPCA it is necessary to submit operating procedure and risk analysis where appropriate. The Supplier is obliged to cooperate on creation of Health & Safety plan, to provide compliance to the coordinator of Health & Safety selected by TPCA, follow his chosen work procedures and organization of work (in compliance with Act. no. 309/2006 Coll., as amended). All costs associated with this activity are born by the Supplier and are already included in the price of Supplies.

## REFUSAL TO TAKE OVER THE GOODS

TPCA shall be under no obligation to take the goods over and, for goods in transport, may send the goods back to the Supplier without paying the price for the same to the Supplier if the goods supplied do not comply with the accepted order or Another Agreement. If the Supplier supplies other goods than those ordered, or errors in the documents required for the proper use of the goods, shall also be regarded as goods defects. All expenses associated with the refused takeover of the goods or with sending any goods back shall be borne by the Supplier.

## INSPECTIONS AND TESTING

Prior to and/or during the delivery of an accepted order or Another Agreement, TPCA shall have the right to make any inspections it deems necessary in order to make sure the Supplier is taken (and will continue in taking) whatever action is required in order to comply with their undertakings resulting out of an accepted order or Another Agreement in a proper and timely fashion. The Supplier shall be obligated to provide any cooperation to TPCA in order to allow for the foregoing provision to be applied.

## TITLE

- TPCA shall become the owner of the goods upon receiving the same from the Supplier or forwarder. TPCA shall acquire the title even if the Supplier is not the owner of the goods unless, at the time of the title acquisition, TPCA knows or should and could

know that the Supplier is not the owner and that they are not authorized to handle the goods either with a view to selling and that, by inference, they are not authorized to transfer the title to the goods to TPCA.

- The risk of damage to the goods shall be transferred once the title to the goods is transferred to TPCA, unless stipulated otherwise in an accepted order or Another Agreement.
- The Supplier undertakes to provide any cooperation required in order to ensure the title to the goods passes to TPCA.

## PRICE AND TERMS OF PAYMENT

- TPCA and the Supplier shall exert maximum efforts with a view to reducing the acquisition costs relating to the goods with a view to putting in place and maintaining competitive price levels and superior goods quality standards. The Supplier may suggest adjustments to the common procedure to TPCA at any time with a view to fulfilling the objective under the foregoing sentence.
- The prices for the Supplies must not be exceeded. Any expenses associated with the Supplies shall be borne by the Supplier; the expenses especially denote the costs of transport and proper packaging and protection of the goods required for the transport and storage of the Supplies in the form of goods, all costs of insurance, customs clearance, labor of the Supplier's staff or the staff of the persons cooperating with them in any other manner, invoicing fees, other levies and any other expenses the Supplier may incur in association with the delivery of the Supplies to TPCA. Unless stipulated otherwise in an accepted order or Another Agreement, the Supplier shall be obligated to procure and pay for the transport of the goods to the goods takeover place at TPCA.
- The agreed upon price for the Suppliers may not be changed except for by a written agreement between TPCA and the Supplier. This is to exclude any unilateral changes to the agreed upon price by the Supplier or TPCA.
- TPCA shall pay the price for the Supplies provided in the currency stipulated in the Supplier's offer of the Supplies. The Supplier shall not have the right to invoice the Supplies provided in any other currency.
- Where the Supplies involve goods, the Supplier (and for goods in transport, the forwarder) shall be obligated to submit to TPCA the loading bill for the goods to be confirmed as received by the latter. Once the delivery note is issued, the Supplier must issue an invoice for the goods supplied, with the confirmed delivery note appended to the invoice. The Supplier shall not have the right to issue the invoice before TPCA confirms reception of the supplied goods in the delivery note.
- The invoices for the Supplies provided shall be issued by the Supplier in a single printout and send, as a priority, to the following email address: [acc\\_invoices@tpca.cz](mailto:acc_invoices@tpca.cz) or to the address of the Financial Department, TPCA, Industrial Park Ověčáry 280, 280 02 Kolín; failure to do so will mean TPCA shall not be obligated to pay the invoiced amount. A separate invoice must be issued for each specific accepted order, unless TPCA's order stipulates otherwise. Other invoices than those issued by the Supplier shall not be accepted by TPCA.
- An invoice issued by the Supplier must contain:
  - TPCA order number if indicated in the order;
  - description of the Supplies;
  - name and registration number of the Supplier, details on its bank account, VAT payer and day of issue;
  - other essentials as stipulated by the applicable legal regulations (especially the Accountancy Act and the Value Added Tax Act).
- Unless the invoice contains the essential above, TPCA shall be obligated to return the invoice unpaid to the Supplier within its payment term, indicating the problems identified.
- Payments against the Supplier's invoices shall be pursuant to the data indicated in any accepted order or Another Agreement. Where an accepted order or Another Agreement does not indicate such data, the invoice shall be paid by the end of the calendar month following the one, during which TPCA receives a flawless invoice. The date of payment of an invoiced amount denotes the day the payment is debited to TPCA's bank account.

## CONFORMITY OF THE SUPPLIES WITH THE ORDER

- The Supplier guarantees to TPCA that the Supplies will be free from any defaults at handover. The Supplier especially makes representations to TPCA to the effect that at the time TPCA receives the Supplies in the form of goods
  - the goods display the properties the Supplier and TPCA have agreed upon, and where there is no such provision, such properties the Supplier or manufacturer previously described, or which TPCA expected with an account taken of the nature of the goods, or any advertising they had organized;
  - the goods are fit for the purpose indicated by the Supplier, or such the goods of this type traditional are expected to serve;
  - the quality or workmanship of the goods corresponds to the contractual sample or model where quality or workmanship has been determined based on a contractual sample or model, with an account taken of the Article on PROPER PROVISION OF THE SUPPLIES, paragraph 2.
- the goods provided are in a sufficient quantity, volume, or weight,
- the goods comply with the requirements laid down under legal regulations and
- documents required for the proper use of the goods have been provided to TPCA.
- If the Supplies exhibit any defects within six months of takeover, the Supplies shall be deemed to have been defective at handover.
- In the event the goods supplied do not comply with the foregoing points, TPCA shall have the right to refuse to take the goods over (see also the Article on "REFUSAL TO TAKE OVER THE GOODS").
- The Supplier shall provide a quality guarantee for all Supplies in the form of goods. The warranty term is 24 months from the date of takeover of the goods at TPCA's site from the Supplier or their forwarder. Under the quality warranty, the Supplier assumes the obligation that the delivered goods will be fit for the contractual or otherwise customary purpose, or that the goods will maintain their contractual or customary properties for a specified period of time. In the event the goods exhibits any defects during the warranty term, the Supplier undertakes to replace or repair the defective goods, at the sole discretion of TPCA and as communicated to the Supplier in writing, at the Supplier's expense. Unless stipulated otherwise, the Supplier shall be obligated to remove the defect or replace the goods within 72 hours from receiving TPCA' communication, which of the defect liability claims TPCA has chosen. In the event of default with the removal of the defect or replacement of any defective goods, TPCA shall have the right to claim a contractual penalty from the Supplier amounting to 1 % of the value of the goods, exclusive of the VAT, for each begun day of the delay. Any expenses incurred by TPCA or the Supplier as a result of any defects in the goods shall be borne by the Supplier.
- TPCA shall have the right to claim any liquidated damages incurred as a result of the use of, or the contrary, the impossibility to use the defective Supplies, from the Supplier.
- The Supplier shall be obligated to inform TPCA of any risks which are or could be associated with the use of the Supplies, and/or regarding any preventive action that needs to be taken as a result of the use of the Supplies, at the latest upon delivery of the Supplies. Where the Supplier only identifies such risks or the need for preventive action after the delivery date of the Supplies, they shall be obligated to inform TPCA of the risks or the need to adopt such preventive action without undue delay. In the event the Supplier fails to live up to the foregoing obligations, they shall be responsible for any liquidated damages TPCA may incur as a result of the former's failure to communicating such pending risks or the need for adopting the preventive action.

## INTELLECTUAL PROPERTY

- All rights intellectual property rights relating the goods that may emerge at any posing during the delivery of an accepted order or Another Agreement or in association with the same, must be transferred by the Supplier, without undue delay, to TPCA unless an accepted order or Another Agreement stipulates otherwise.
- Where the subject of an accepted order or Another Agreement involves completion of copyrighted work, the Supplier undertakes to transfer an exclusive license for the copyrighted work to TPCA through a written licensing agreement, with the license covering the all methods of use of such copyrighted work and being unlimited, unless an accepted order or Another Agreement stipulates otherwise; TPCA shall not be obligated to use such a license. The licensing agreement shall stipulate that the license is provided as royalty-free, unless an accepted order or Another Agreement stipulates otherwise.

## CONFIDENTIALITY OBLIGATION

- TPCA Confidential Information comprises competitively significant, determinable and valuable information, which is not regularly available in the relevant

commercial spheres, which is specifically connected with the TPCA plant, and whose confidentiality is adequately provided for by TPCA in its own interest (hereinafter jointly referred to as the "Confidential Information").

- TPCA classified information includes, regardless of the form and method of disclosure or capture, and until published by TPCA itself, any other information related to TPCA and its undertaking, which the Supplier may learn under mutual cooperation with TPCA in any way, or which they may encounter and/or which is disclosed to them by TPCA during the mutual cooperation. TPCA classified information further include any information of a technical, economic, legal and production nature, in physical or immaterial format, which the Supplier may be disclosed to under mutual cooperation with TPCA (hereinafter referred to as "Classified Information").
- The Supplier must not use TPCA Confidential Information and/or Classified Information for any other purposes than those of executing any accepted TPCA orders or Another Agreements concluded with TPCA. The Supplier must not reproduce, publish, disclose, use or disseminate any TPCA Confidential and/or Classified Information unless they have obtained TPCA's prior consent and even if that is the case, subject to the limitations stipulated by TPCA.
- Provided they obtain TPCA's prior written consent, the Supplier may disclose the Confidential and/or Classified Information to persons who contribute to the delivery of any accepted TPCA order or Another Agreement concluded with TPCA based on a contractual relationship with the Supplier.
- The Supplier shall be deemed to have breached the confidentiality obligation if the Supplier, the Supplier's staff or persons cooperating with the Supplier in any other way, disclose, in an unauthorized manner, to another person, for their own benefit or for the benefit of any third party, the Confidential/Classified Information which may be used in a competition and which they have learnt:
  - by being entrusted with the Confidential/Classified Information or through the said Confidential/Classified Information being disclosed to them in any other way under their employment with the Supplier, or under any other relation they may have with them, under their pursuit of a position they were appointed to fill by resolution of a court or another body, or
  - by their own or somebody else's action in violation of the law.
- The Supplier shall be held accountable for any breach of the prohibition of reproduction, publication, disclosure, use or dissemination of the Confidential/Classified Information by the Supplier, their staff or persons cooperating with the Supplier in any other way. In the case foreseen by the present Article of the GPTC, paragraphs 3 and 5, the Supplier shall be obligated to pay to TPCA a contractual penalty amounting to CZK 500,000 or 10 % of the overall annual turnover generated between the Supplier and the TPCA where the annual turnover exceeds CZK 5,000,000 (up to the maximum amount of CZK 5,000,000) for each individual breach. The overall annual turnover denotes the sum of all amounts invoiced between the Supplier and TPCA during the preceding 12 consecutive calendar months before the month, during which the obligation under the present GPTC was breached. The contractual penalty shall be payable within 15 days of delivery of the payment request to the Supplier, or the day such payment request could reach them; this shall in no way affect TPCA's claim to any liquidated damages.
- Upon entering TPCA's site and while staying within its premises, the Supplier, their staff or persons otherwise cooperating with the Supplier shall respect any precautions and follow any instructions given by TPCA, their staff or persons otherwise cooperating with TPCA.

## SUPPLIER'S STAFF

The staff of the Supplier or any other persons that have any contractual relationship with the Supplier and have been entrusted with the delivery under any accepted TPCA order shall in all respects follow the present GPTC - namely the part on "CONFIDENTIALITY", internal regulations applicable at the TPCA SITE, including any requirements in the field of safety at work, fire protection and environmental protection, which it is the Supplier's obligation to provide. In the Supplier's staff or any other persons that have any contractual relationship with the Supplier and that have been entrusted with any activities under the delivery of accepted TPCA orders or Another Agreement fail do so, it shall be regarded as a material breach of the agreement between TPCA and the Supplier, which has been entered into through any Order Acceptance, or by virtue of Another Agreement concerning the delivery of the Supplies. If that is the case TPCA shall have the right to withdraw from the agreement thus concluded and/or claim liquidated damages from the Supplier to atone for any loss caused by the action of the persons listed in the present Article.

## SUPPLIER'S INSURANCE

The Supplier shall be obligated to take out and maintain an adequate general damage liability insurance policy covering any losses due to defects (for the Supplies that come in the form of goods) or damage liability insurance for professional services (for the Supplies that come in the form of professional services), caused by the Supplier's staff present at any TPCA site, in terms of losses and damage to property or injuries sustained by the staff of TPCA, the Supplier or any third party. The insurance limit for the aforementioned policies is set at least to the amount equivalent to the value of the Supplies provided as per the accepted order.

## SUBCONTRACTS

Where delivery of an accepted order or Another Agreement is entrusted to a subcontractor, it shall not exempt the Supplier from their liability for any damage caused to TPCA by the defective Supplies to which the said subcontractor was contributed.

## TERMINATION OF THE CONTRACTUAL RELATIONSHIP WITH THE SUPPLIER

In the event defective Supplies are delivered, the Supplier breaches any of the obligations under the present GPTC, an accepted order or Another Agreement between TPCA and the Supplier, or in the event of coming into legal force of a court ruling regarding the Supplier's bankruptcy, TPCA, at its sole discretion, may serve a written notice to the Supplier's registered address in order to cancel an accepted and non-accepted order and/or withdraw from Another Agreement concluded between TPCA and the Supplier. The effects of the cancellation of an accepted order and/or withdrawal from Another Agreement shall occur upon delivery of a written notice to the above effect to the Supplier (unless a later date is stipulated in the notice).

## INTERPRETATION OF THE GPTC AND JURISDICTION

- Any accepted orders, Other Agreements, the present GPTC and other contractual relations between TPCA and the Supplier shall be governed by the law of the Czech Republic.
- All provisions under the present GPTC and independent and severable and where any provision hereunder becomes or is declared as unenforceable, illegal, ineffective or void, either as a whole or in part, by any court, court of arbitration, regulatory body or any other competent body, the provision, in the extent as provided above, shall be deemed as excluded from the present GPTC, which shall in no way affect the enforceability, legality, effects and validity of the remaining part of the GPTC.
- TPCA and the Supplier shall attempt to resolve any disputes resulting out of any accepted orders or Other Agreements, and especially any disputes resulting out of the Supplies, interpretation, termination and/or validity of an accepted order or Another Agreement amicably in the first place.
- The parties hereto agree that the local jurisdiction over any disputes as per the foregoing paragraph shall be with the Regional Court in Prague, or the District Court in Kolín, depending on the material jurisdiction in any specific case.

## LANGUAGE

In the event of any doubts or any other problems with the interpretation of the present GPTC resulting out of any differences between the various language versions of the GPTC, the version in Czech prevails.

## CONCLUDING PROVISIONS

The rights and obligations set forth under the present GPTC shall only be applied unless an accepted order and/or Another Agreement stipulates otherwise. Any diverging provisions under an accepted order or Another Agreement shall have a priority to the wording of the GPTC. This GPTC are becoming valid and effective as of 1.1.2017.