

General Terms and Conditions of Purchase of the SMB Group

Group of companies:

SMB Holding GmbH

AT-8075 Hart bei Graz, Gewerbepark 25
FN 519639a

SMB Industrieanlagenbau GmbH

AT-8075 Hart bei Graz, Gewerbepark 25
FN 35015v

SMB Pure Systems GmbH

AT-9400 Wolfsberg, Alois-Huth-Straße 7
FN 387865s

SMB Manufacturing Services s.r.o.

SK-03601 Martin, Čsl. Armády 3
IČO 51 400 871

SMB Construction Service s.r.o.

SK-04001 Košice, Letná 11/45
IČO 50 712 811

SMC Steel Work Manufacturing & Construction GmbH

AT-8075 Hart bei Graz, Harter Südstraße 16
FN 440237h

SMB Houdek GmbH

DE-97497 Wertach, Igelsbach 15
HRB 12532

SMB Pure Systems Kft.

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Cg. 13-09-204756

RAB Pure Systems GmbH

AT-9500 Villach, Behringstraße 23
FN 381828m

1 General provisions, territory

- 1.1 These General Terms and Conditions of Purchase (hereinafter referred to as "TCP") are a major component of any legal transaction concluded with the SMB Group (hereinafter referred to as "SMB") that deals with the delivery of raw materials, semi-finished products and equipment components purchased from as well as services provided by suppliers (hereinafter referred to as "Seller"). The TCP only apply to Sellers who are entrepreneurs (section 1 Austrian Companies Act) or a legal entity under public law.
- 1.2 These terms and conditions do not apply to third-party personnel hired to carry out the work of SMB. Those provisions will be set out separately in the "General Terms and Conditions for Hiring Agency Personnel", which can also be accessed under www.smb.at.
- 1.3 The TCP apply to contracts for the sale and ordering of moveable and immovable items (that are to be manufactured) ("Goods"), irrespective of whether the Seller produces these Goods themselves or acquires them from suppliers. Unless agreed otherwise, the TCP shall apply as amended at the time SMB places the order or always in the version last communicated to the Seller and they shall form

a framework agreement, also for any similar future contracts without repeated reference being made to these TCP.

- 1.4 These TCP apply exclusively and to any and all business transactions with the Seller. Deviating, contradicting or supplementary terms and conditions of the Seller are not accepted by SMB. These shall only and insofar become a part of the contract as SMB have agreed to any such expressly and in writing. This consent is required in all cases, even if SMB accept or pay for the deliveries of the Seller without objection despite being aware of the General Terms and Conditions of the Seller.
- 1.5 Any individual case-by-case agreements with the Seller (including supplementary provisions, addenda and amendments) shall always take precedence over these TCP. The content of such agreements shall be based on a written contract or on our written confirmation.
- 1.6 SMB does not accept deviating order confirmations for orders placed by SMB.
- 1.7 Legal declarations and notifications the Seller has to make towards SMB after the contract was concluded (e.g. setting time limits, warnings, declaration of withdrawal) must be made in writing to be effective.
- 1.8 Any reference to the application of legal provisions shall only have informative value. Even without such reference, the legal provisions still apply, unless they are expressly amended or excluded in these TCP.

2 Delivery and delay

- 2.1 The agreed delivery date/schedule is binding. SMB may suspend the delivery date by up to 3 months at any time and without the Seller being granted a right to compensation for additional costs. SMB must agree to early deliveries/services and/or part deliveries/services in writing. Unless expressly agreed otherwise in writing, the Seller shall deliver the Goods duty paid (DDP) in accordance with Incoterms 2020 and to the contractually agreed destination as set out in the order.
- 2.2 The Seller agrees to notify SMB immediately and in writing if circumstances arise or become foreseeable that make it obvious that delivery times cannot be complied with.
- 2.3 In case of delay, the following sections on delay shall be deemed agreed by SMB and the Seller:
 - 2.3.1 SMB is entitled to demand payment of a contractual penalty of 0.5% of the gross contract price for each calendar day of delay, but at least EUR 1,000.00 (lump-sum compensation for disposition costs), in addition to the Seller fulfilling their delivery obligation. Where the contractual penalty exceeds EUR 1,000.00, the total amount paid as penalty is limited to 15% of the gross contract price.
 - 2.3.2 Furthermore and without prejudice to any other of their rights, SMB may, after an appropriate grace period was set or if the delivery/service is no longer of interest due to the delay or in case

of imminent danger or in order to avoid any further damage or in case of special urgency also without setting a grace period, have the delivery/service the Seller has not yet provided carried out by a third party at the cost of the Seller or SMB may withdraw from the contract and demand compensation for damages.

2.3.3 In any case of substitute performance arranged by SMB, the Seller will, at their costs, provide SMB with all necessary information for such substitute performance and will surrender any documents in their possession and, in the event that these are subject to proprietary or third party property rights, they will grant appropriate rights of use and the Seller will indemnify and hold SMB harmless against all claims based on such third-party rights with immediate effect.

2.4 The Seller also agrees to the following:

2.4.1 On request, the Seller provides SMB with certificates of origin, declarations, documents and information regarding trade requirements and, if requested to do so, the Seller will provide SMB with comprehensive information in writing regarding potential export restrictions or approval obligations in the country of origin or at the destination of the deliveries and services;

2.4.2 The Seller provides the full details of all immediate and long-term potential risks or dangers associated with the Goods, especially toxicity, flammability, harmful effects in the event of inhalation or direct contact and in regard to whether these risks arise in connection with direct or indirect use;

2.4.3 The Seller provides the full details on appropriate safety precautions that must be taken with regard to the utilisation and handling of the Goods; and

2.4.4 The Seller will label all packaging and boxes/containers containing hazardous, toxic or otherwise harmful Goods in a suitable and visible manner in order to protect the persons handling or coming into contact with the Goods.

2.5 In the event of excess orders, i.e. deliveries where SMB has ordered an excessive quantity for the project in question, the Seller will, after a corresponding adjustment of prices and at own costs and risk, collect these Goods at the destination agreed in the contract and will take them back.

3 Prices, payment, invoicing

3.1 The prices agreed in the contract are fixed prices.

3.2 Unless agreed otherwise in the contract, the price payable for the delivery and/or service is subject to the following:

3.2.1 Excluding value added tax ("VAT"); and

3.2.2 Including any and all costs for packaging, loading, shipping, freight, insurance and delivery of the Goods; all travel and subsistence costs, accommodation costs and other costs associated with the services and any and all duties, licences, permits and taxes (other than VAT), as they may apply to the deliveries and/or

services from time to time.

3.3 Unless agreed otherwise, payments are due within 14 days with a 3% discount, within 30 days with a 2% discount or within 60 days net after the contract was fulfilled as agreed or after the milestone that gives rise to the payment was achieved and in any case after receipt of an auditable invoice. Payments will be made by bank transfer. Any and all banking fees must be paid by the Seller.

3.4 Any payments on account that may have been agreed shall not exempt the Seller from their obligation to include and invoice all services in an itemised final invoice.

3.5 Under no circumstances do payments of SMB constitute acknowledgement that the services were provided in a professional and correct manner in terms of an acceptance of the service.

3.6 The Seller has to include in all invoices, delivery documents and/or bills of lading the order number and commission number of SMB as well as the contractually agreed notices; otherwise, any consequences (e.g. delays, additional costs) will be borne exclusively by the Seller. The agreed payment period will start after receipt of the invoice that has to comply with the applicable legal provisions in effect at that time, including any delivery and service confirmations.

4 Transport and packaging

4.1 The Seller will package, load and transport the ordered Goods in an appropriate manner and will take back any packaging material at no costs for SMB. The packaging must be state-of-the-art.

4.2 The Seller is responsible for ascertaining whether the Goods ordered or any of their components are classified as **hazardous Goods** in their country of origin, at the destination or in transit countries in terms of applicable legal provisions. The Seller will declare, label and package the Goods accordingly, will make the necessary documents available and will notify SMB thereof.

4.3 SMB does not agree to the application of General Austrian Freight Forwarder Terms and Conditions or any equivalent international standards for transports.

5 Force majeure

5.1 In an event of force majeure that will cause the contractually agreed service or due fulfilment of the contract to become substantially more difficult for the Seller or that will cause a temporary delay or make any such service or compliance with the contract impossible, the Seller will not be held liable.

5.2 Force majeure are any and all independent circumstances that are unaffected by the desire and influence of the parties to the agreement, such as natural disasters, measures implemented by the government, decisions of the authorities, embargos, war and other armed conflicts, mobilisation, internal unrests, terror attacks, industrial action, lockouts and other

labour disputes, seizure, epidemics and any other circumstances and events that are unforeseeable, severe and not caused by the parties to the agreement and which occur after this contract was concluded.

- 5.3 Where one of the parties to the agreement is prevented from complying with its contractual obligations as a result of force majeure, this shall not be considered a violation of contract and any time limits set out in or in accordance with the contract will be extended appropriately and for the duration of the adverse event. The same applies in cases where the Seller is dependent on receiving services from a third party and if such service is delayed due to force majeure.
- 5.4 Every party to the agreement will, to the necessary and reasonable extent, do its utmost to mitigate any effects caused by the event of force majeure.
- 5.5 The party to the agreement affected by force majeure will notify the other party without undue delay and in writing of the occurrence of the adverse event and of its end.
- 5.6 When it becomes obvious that the event will persist for more than 6 months, each party to the agreement shall have the right to cancel the contract by giving notice by registered letter.

6 Quality requirements

- 6.1 The Seller supplies Goods of the highest quality in accordance with the Seller guarantees set out in section 7. The Seller will comply with all applicable legal provisions as well as best practices and standards in the industry and will develop, produce and check the Goods that are to be supplied in a manner that will ensure that the Goods comply with the aforementioned provisions, practices, standards and the contract.
- 6.2 If the Seller becomes aware that the deliveries or services do not meet the quality requirements and the Seller guarantees as set out in section 7 and/or if the Seller has justified doubts whether the deliveries or services meet these requirements, the Seller shall notify SMB in writing without undue delay and will notify SMB of any measures that are to be taken. The same applies if the Seller becomes aware of third-party property rights that are not compatible with an unrestricted use of the deliveries or services by SMB.
- 6.3 SMB may inspect the deliveries or services prior to these being provided or after completion at the site of the Seller or at any other location at any time. Such inspection by SMB shall not exempt the Seller from Seller's responsibilities and liability for the deliveries or services, and it does not constitute an acceptance of the deliveries and services by SMB. The right of SMB to prior inspection of the delivery does not affect the right of SMB to refuse acceptance of the Goods after these have been delivered.
- 6.4 SMB may demand raw material certificates and inspection certificates for materials and devices used to procure and produce the Goods. The

Seller will submit these certificates to SMB within five days after such request was received.

- 6.5 Acceptance test certificates according to EN10204 must comply with the Directive 2014/68/EU.
- 6.6 Where standards are specified, deliveries must comply with the most recent version of these standards.

7 Warranty and guarantee

- 7.1 The Seller guarantees and represents that their services comply with the acknowledged rules and state-of-the-art at the time the order is placed as well as with any and all regulations and standards applicable in the home country of the Seller and at the destination, with agreed characteristics as well as pertinent safety, occupational safety and accident prevention regulations; the Seller also guarantees and represents that the services will have the guaranteed properties and will also be free from other material defects and defects of title and that the Goods delivered by the Seller are the Seller's property only.
- 7.2 Furthermore, the Seller guarantees and represents that the delivery/service will be suitable for the specific purpose, that all information, manuals or documents are attached that are required to use, operate and dispose of the delivery/service.
- 7.3 The above guarantees are given in addition to the legal warranty obligations of the Seller. Any claims of SMB under guarantees and warranties shall become time-barred 36 months after acceptance of the facilities by the operator, unless agreed otherwise in writing. Any statutory limitation periods exceeding the above shall remain unaffected.

8 Legal remedies

- 8.1 SMB is not obliged to report defects of the delivery/service in accordance with section 377 Austrian Companies Act immediately after they were delivered/provided. The parties to the contract agree that, for the first 3 years after acceptance, it shall be assumed that the defect was already present at the time of delivery/service.
- 8.2 In any case, SMB may, at their discretion, demand the Seller to remove the defect or to provide a replacement service; the Seller shall bear any costs incurred in connection with a removal of defects or replacement service, including any repairs.
- 8.3 SMB also has the right, after notification of the Seller, to remove defects or to make covering purchases themselves at the costs of the Seller in the event of imminent danger, special urgency, an appropriate grace period set for the Seller to remove the defect having expired unsuccessfully, if subsequent performance was unsuccessful or if doing so appears to be expedient to mitigate the damage.
- 8.4 If and insofar as deliveries/services cannot be

used as agreed due to subsequent work being undertaken by the Seller, the warranty period shall be extended by the duration of such disruption. The limitation period for any services repaired and/or replaced subject to warranty provisions shall start anew with acceptance of the repairs or of the replacement service.

8.5 SMB shall be entitled to set-off and retention rights as provided for by the law. SMB shall also be entitled to set-off and retention rights in regard to any claims SMB can assert against any companies affiliated with the Seller in terms of section 15 Stock Corporation Act.

8.6 Disputes regarding the amount of remuneration payable to the Seller shall not entitle the Seller to terminate or suspend all or part of their services. In the event of incorrect delivery/service, SMB shall have the right to retain a proportion of the payment equal to the value of that delivery/service until that delivery/service was provided in accordance with the contract.

9 Indemnification and insurance

9.1 The Seller shall be liable for all damages and disadvantages associated with their deliveries and services. This includes damage caused by violation of environmental protection laws, costs associated with product defects and recalls or claims asserted by third parties in connection with property right violations. In this case, the Seller will indemnify and hold SMB harmless in regard to any claims asserted in by a third party, on first written request. Furthermore, the Seller shall reimburse any damage caused to SMB, SMB's clients and customers and pay compensation for any interruption of business. In the event of claims under the Product Liability Act, the Seller shall name the importer, the producer and any other liable parties within one week. The right to assert further claims is reserved.

9.2 The Seller must arrange for adequate insurance cover for all aforementioned and other risks associated with Seller's operations, with a sum insured of at least EUR 1,500,000.00 and the Seller shall provide proof for such cover without being asked to do so.

10 Spare parts

The Seller guarantees that spare parts and consumables for every order are available for a period of no less than 10 years after purchase, in at least equivalent quality and functionality.

11 Subcontracting

11.1 Any subcontracting for all or part of the order must be approved by SMB. If the Seller delays payments to their suppliers and subcontractors, SMB shall have the right to make direct payments that, where they are made in connection with justified claims of the supplier/subcontractor, shall be considered to be a conditional payment in the relationship with the Seller. In the event of delay or potential or actual bankruptcy of the Seller, SMB shall have the right to accede to any and all contracts with the suppliers/subcontractors of the Seller.

11.2 In any case, all third parties that the Seller uses to comply with their obligations under the order or who are included in the services, especially suppliers and subcontractors, shall be considered vicarious agents of the Seller.

12 Cancellation and withdrawal

12.1 SMB reserves the right to withdraw from the order or parts thereof for important reasons. In this case, the Seller shall only be reimbursed for any costs the Seller verifiably incurred, excluding any compensation for loss of profits. The corresponding provisions of sections 1168 et seqq. Austrian Civil Code do not apply. If the Seller is responsible for the important ground based on which SMB withdraws from the contract, the Seller shall be liable for any adverse consequences SMB suffers as a result.

12.2 Important grounds include the following in particular: the Seller being unable to pay; absence of valid subject matter; the Seller's obvious lack of reliability; delayed service; deficient performance, but also any other circumstance that would severely reduce the economic interest of SMB in pursuing the order or would even render any pursuing of the order unreasonable.

13 Confidentiality

13.1 SMB reserves the ownership and/or intellectual property rights and/or any other property rights associated with any and all images, drawings, models, templates, calculations, construction plans and other documents and tools that SMB makes available for completion of the order or the creation of which SMB paid for. These documents may only be used for the agreed purpose and must not be duplicated and/or made accessible to third parties. They must be returned to SMB free of charge and immediately after completion of the order without being asked to do so or must be destroyed after coordination with SMB. The Seller shall be liable for any damage SMB incurs as a result of a culpable violation.

13.2 The Seller shall treat all technical and commercial information the Seller gains access to while doing business with SMB as confidential in the Seller's dealings with third parties; this also applies to the time after the business relationship has ended.

13.3 Using orders or even the aforementioned documents as references and/or for advertisement purposes shall require the prior permission of SMB.

14 Inspection and warning obligations of the Seller

14.1 SMB's approval of drawings, calculations and other documents does not affect the exclusive liability of the Seller for the subject matter. This also applies to suggestions, recommendations and other cooperation on the part of SMB. The Seller shall carefully review the documents, instructions and materials that are provided and shall report any errors in good time and in writing; no separate remuneration is paid for

such checks.

Last amended on 01/03/2021

15 The Seller's personnel

- 15.1 The Seller hereby declares on their behalf and on behalf of their subcontractors that they comply with all applicable laws and regulations, industrial minimum requirements; conventions of the International Labour Organization (ILO); the human rights declaration of the UNO; the UN Convention on the Rights of the Child as well as with regulations aimed at abolishing any form of discrimination; applicable environmental protection law; with principles of UN Global Compact as well as with the OECD guidelines for multinational corporations as well as other internationally accepted agreements for national and international production processes and sites. In the event of non-compliance, the supplier agrees to accept liability for any and all resulting costs and damages, including penalties, and to indemnify and hold SMB harmless in this regard.
- 15.2 The Seller agrees to only use appropriately qualified personnel for assembly services provided to SMB that holds valid residence and work permits and the Seller agrees to accept full liability for compliance with occupational health and safety and other applicable safety regulations. Personnel that does not meet these requirements or violates safety regulations may be rejected by SMB at any time. Furthermore, the Seller agrees to pay their staff the wages they are due and to pay all social security contributions and staff-related costs as required by law. Any violation of the above provisions shall give rise to a contractual penalty of EUR 2,000.00 per person and per day of work.
- 15.3 The Seller agrees to the processing of their personal data for the purposes of processing the order and the services and the Seller guarantees and represents to have their employees and subcontractor agree to the same.

16 Place of jurisdiction, applicable law

- 16.1 The legal relationship between the parties is exclusively subject to the laws of the Republic of Austria; the CISG provisions do not apply.
- 16.2 The place of jurisdiction for all kinds of disputes is the court with jurisdiction *ratione materiae* in Graz.

17 Final provisions

- 17.1 Should any of the provisions of these TCP become void, challengeable or unenforceable, either in part or as a whole, this shall not affect the validity of the agreement and the remaining terms and conditions. The fully or partially void provision shall be replaced by that provision that comes as close to the economic goal of the void provision as possible.
- 17.2 Verbal supplementary agreements as well as any exclusion, amendment and/or supplement to these TCP must be expressly confirmed in writing by SMB. Any waiver of the written form requirement must be declared in writing.