

# General Terms and Conditions of Purchase

## 1 General, scope

- 1.1 These General Terms and Conditions of Purchasing shall apply to any delivery or service (hereinafter generally referred to as "Delivery" or "Deliveries") provided to us by any seller, work contractor, or party obligated to perform services (hereinafter generally referred to as "Supplier").
- 1.2 Our Terms and Conditions of Purchasing shall be applicable on an exclusive basis; no Supplier terms and conditions conflicting with or differing from our terms and conditions shall be recognized. Our Terms and Conditions of Purchasing shall also be applicable when we accept delivery from the supplier without reservation while being aware of any terms and conditions conflicting with or diverging from our Terms and Conditions of Purchasing.
- 1.3 These Terms and Conditions shall not be applicable unless to entrepreneurs, legal entities under public law or special funds under public law as defined in Section 310, Subsection 1 of the German Civil Code (BGB).
- 1.4 These Terms and Conditions of Purchasing shall also apply as a master agreement to any future contract or agreement with the same Supplier without requiring us to refer to such master agreement in every single case again. But this shall not be applicable if we modify the Terms and Conditions of Purchasing; in this case, we shall notify the Supplier on a separate basis.
- 1.5 Any individual agreement made with the Supplier in a particular case (including any subsidiary agreement, supplement or modification) shall take precedence over these General Terms and Conditions of Purchasing in every case. The contents of any such agreement shall be subject to a written contract or written confirmation issued by us.
- 1.6 No legally relevant representation or notification (e.g., notice to set deadlines, reminder, notice of rescission) to be furnished by the Supplier to us after the conclusion of the contract shall be effective unless made in a written form.

## 2 Offer or quotation, order processing

- 2.1 When submitting any offer or quotation, the Supplier shall precisely observe the specifications included in the request for quote and shall expressly point out any deviation therefrom. Any offer or quotation shall be submitted free of charge.
- 2.2 Every purchase order or call off from any contract (hereinafter referred to as Order or Orders) shall be given in writing by us. Any transmission made via fax or electronic data interchange shall be applicable mutatis mutandis. Any Order given verbally shall promptly be confirmed in writing.
- 2.3 The Supplier shall agree to acknowledge our order within one (1) business day for any delivery at short notice (up to one (1) week), or within three (3) business days for any other delivery. If no acknowledgement is given, we shall not be bound to our Order any longer.
- 2.4 Our purchase order number including the identifier of the person in charge must be clearly shown on every acknowledgement, delivery note, invoice or other correspondence.
- 2.5 A delivery note indicating our purchase order data, the delivery quantity and the precise description of the goods must be enclosed with every delivery.
- 2.6 Any drawing, construction or testing instruction transmitted to the Supplier in relation with our purchase orders and our packaging and shipping instructions shall be deemed included in any such purchase order. Unless our purchase order, any drawing corresponding thereto, or any other manufacturing instruction specify any particular and precisely described material or manufacturing procedure, the Supplier shall be liable to the full extent for any material selected and for the production method applied.
- 2.7 Before starting manufacture or making any delivery, the Supplier shall notify us in writing of any modification to the composition of the material processed, or to the design version as compared to any delivery of a similar nature provided to us at an earlier time. Any such modification shall be subject to our prior written consent.
- 2.8 We shall reserve title to ownership in any image, drawing, calculation or any other document provided to the Supplier; this shall also apply to our copyrights where any such document is copyrightable. No such document may be disclosed to any third party unless with our express prior written consent. No such document shall be used unless exclusively for the purposes as defined in our purchase order; they shall be returned to us upon a written request but not later, and then without any request, after having processed the purchase order. They shall be kept secret from any third party, and, in such respect, shall be subject to the supplementary provisions set forth in item 10.4 below. The Supplier shall have no retaining lien to any such document.

## 3 Prices, freight, packing, insurance

- 3.1 The price indicated in the purchase order shall be binding. Unless as otherwise agreed, all prices shall be firm prices and shall be stated in terms of EUROS, and invoices shall also be issued in EUROS. Prices shall be deemed to include any shipping and packaging cost, tax, customs duty, commissioning cost, fee or other public charge or out-of-pocket expense. Delivery shall be made free to the point of delivery. Shipping shall be at the supplier's risk.
- 3.2 No cost for any insurance shall be assumed by us unless as agreed in writing.

## 4 Payment terms

- 4.1 No invoice may be processed by us unless such invoice shows, among other information, the purchase order number as specified in our corresponding purchase order; the Supplier shall assume responsibility for every consequence resulting from any failure to comply with such obligation unless the Supplier proves that he or she is not responsible for such consequence.
- 4.2 We shall be entitled, in particular, to retain payments due to a reasonable extent as long as we still have any claim against the Supplier resulting from any incomplete or unsatisfactory delivery; an amount twice as high as the costs required for correcting any such defect shall be deemed reasonable as a general rule.

- 4.3 Payment shall be made applying a 3 % cash discount within a period of 14 days after invoice receipt, or applying a 2 % cash discount within a period of 30 days after invoice receipt, or net without deductions within a period of 60 days after invoice receipt but, in any case, not before delivery/service provision.
- 4.4 The Supplier shall not be entitled to assign any claim resulting from this contractual relationship to any third party. The foregoing shall not apply if and where monetary claims are concerned.
- 4.5 We shall not assume any interest on arrears unless in an amount not exceeding 5 percentage points above the base interest rate.
- 4.6 No right to set-off and/or retention shall be available to the Supplier unless for counterclaims which are recognized by declaratory judgment, uncontested or ready for a decision in any proceedings pending in court

## 5 Delivery dates

- 5.1 Every delivery date indicated in a purchase order shall be binding and the time of delivery shall be of the essence. When failing to meet a delivery date as agreed, the Supplier shall be deemed in default without requiring any notice to be given. The Supplier shall agree to inform us in writing and with no delay whenever circumstances occur or become apparent to the Supplier, indicating that an agreed delivery time cannot be met; nonetheless, the foregoing shall not affect the Supplier's responsibility to observe the agreed delivery date. Compliance with any delivery date shall depend on delivery to the place of delivery as specified by us.
- 5.2 In the event of any delay in delivery, we shall be entitled to the statutory claims. The provision defined in item 5.3 shall remain unaffected.
- 5.3 The Supplier shall be obligated to pay a penalty if the Supplier exceeds the delivery date. Such penalty shall amount to 0.3 % per business day of delay but not exceed a total of 5 % of the overall net remuneration amount. We shall be entitled to claim such penalty until the date of final payment even though we may not have expressly reserved such right at the time of receiving any late delivery. The contract penalty already paid shall be offset against any damage or loss caused by late performance to be compensated by the Supplier.
- 5.4 No delivery in part or ahead of schedule shall be admissible unless upon our prior written consent, and no such delivery shall require us to make any payment in part or ahead of schedule.
- 5.5 We shall be entitled to request that delivery be made, either fully or in part, at a later time without entitling the Supplier to raise any claim against us for such reason if and where any failure to take delivery or grant acceptance on our side is caused by any force majeure, industrial action or by any other event beyond our sphere of influence. Notwithstanding the foregoing, every contracting party shall be entitled to rescind the contract if such extension exceeds a period of six months. No contracting party may assert any claim whatsoever against the other contracting party in such an event either.

## 6 Liability for defects, defect notice, acceptance under a contract for work and services

- 6.1 Where applicable, the commercial duty to examine and object to defects shall be subject to the statutory provisions (§ 377 of the German Code of Commerce, HGB) with the following proviso: Our duty to examine shall be restricted to any deficiency which becomes openly evident in our company (e.g., damage in transit, wrong or short delivery). No duty to examine shall exist if and where acceptance has been agreed upon. In other respects, such duty shall depend on whether an examination is expedient in the proper course of business when considering the circumstances of the individual case concerned. Our obligation to lodge complaints for any deficiency detected at a later time shall remain unaffected. In every case, our complaint (defect notice) shall be deemed immediate and timely if issued within ten (10) business days.
- 6.2 The Supplier shall perform a pre-delivery inspection which serves the same purpose as the incoming inspection actually required by us in accordance with § 377 of the German Commercial Code.
- 6.3 We shall be entitled to statutory claims based on defects without any reduction; respectively of the foregoing, we shall be entitled to request the Supplier, at our option, to provide either defect correction or replacement. In any such event, the Supplier shall agree to bear every expenditure required to provide such defect correction or replacement, including any disassembly or assembly costs. We shall expressly reserve the right to receive compensation in damages including but not limited to damages for non-performance.
- 6.4 The period of prescription applicable to any claim based on a defect shall be 36 months calculated from the transfer of risk.
- 6.5 Where any specific sign appears indicating a defective delivery, we shall be entitled to either inspect the goods ourselves or have them inspected by a technical testing institute at the Supplier's expense to determine their fitness for purpose.
- 6.6 No acceptance and further processing of any goods which are or are suspected to be defective shall exclude any liability claim based on defects against the Supplier provided that we notify the Supplier in writing that we are compelled to further process such goods on a transitional basis for the time being in order to enable us to meet our own delivery commitments to customers and avoid further loss or damage. Any cost incurred by us due to any higher installation effort, or repair or rework activity during further processing in such an event shall be reimbursed to us by the Supplier upon the production of evidence for such cost.
- 6.7 The running of the period of prescription shall be suspended upon the receipt of our written notice of defect by the Supplier. In the event of replacement or defect correction, the period of prescription shall restart for any part replaced or reworked unless the Supplier's conduct makes us assume that the Supplier did not feel obligated to but rather made any such replacement or defect correction only as a gesture of good will or for any similar reason.
- 6.8 Any services provided under a contract for work shall be subject to our formal acceptance. The supplier shall notify readiness for acceptance to us in writing and in good time. Any conclusive or fictitious acceptance shall be excluded.

## 7 Product warranty, indemnity, liability insurance cover

- 7.1 Where the Supplier is responsible for any product damage, the Supplier shall be obligated to indemnify us against any third-party damage claim upon first demand to the extent such claim is caused within the Supplier's scope of control and organisation, and where the Supplier is liable itself in relation to third parties.
- 7.2 Within the scope of the Supplier's liability for any case of damage within the meaning of item 7.1, the Supplier shall also be obligated to reimburse any expenditure which is incurred for or in connection with any recall action lawfully performed either by us or by our customer. As far as possible and reasonable, we shall notify the Supplier sufficiently in advance of the contents and extent of any recall action to be conducted, and provide an opportunity for the Supplier to make a statement. Other statutory claims shall remain unaffected.
- 7.3 The Contractor shall agree to maintain a product liability insurance providing for an adequate amount of coverage for personal injury and damage to property; any further claim for damages to which we may be entitled shall remain unaffected. Upon our request, the Supplier shall, at any time, send us a copy of the insurance policy or, upon a specific request by us, a current certificate of insurance

## 8 Third-party industrial property rights, Open Source

- 8.1 The Supplier shall agree to ensure that no third-party industrial property right or other right will be infringed in relation with the Supplier's Delivery.
- 8.2 If a third party lodges any claim against us in this respect, the Supplier shall be obligated to indemnify us against any such claim upon the first written request; the foregoing shall not apply if such infringement of any third-party right is beyond the Supplier's control. In the event of such indemnity, we shall not be entitled to make any agreement with such third party, including but not limited to the conclusion of any compromise settlement, unless with the Supplier's consent.
- 8.3 The Supplier's indemnification duty shall relate to any expenditure which we incur necessarily due to or in connection with any claim made by a third party.
- 8.4 The period of prescription shall be 36 months, starting upon the transfer of risk.
- 8.5 Should the Supplier intend in the context of the deliveries to us to integrate "open-source software" or "free software", and therefore software that can generally be procured free of charge and on an open-source basis, into software developments for the deliveries to us in order to fulfill the contract, the Supplier is obliged to inform us immediately in writing about which open-source software, including the respective version numbers, the Supplier plans to use. Moreover, the Supplier is obliged to inform us about which license conditions are applicable in this situation and to submit a copy of such conditions in full to us.
- 8.6 If the integration of the open-source software will be carried out exclusively in binary or executable form, the Supplier is obliged to supply us with the open-source software in source-code form, including all the necessary build scripts for producing an executable version. In this case, the successful creation of such a version on our premises is a component of the acceptance in accordance with item 6.8 of these Terms and Conditions of Purchasing.
- 8.7 In the event that open-source software is used in accordance with items 8.5 and 8.6 above, the Supplier hereby guarantees that the information and documents to be submitted by the Supplier to us are complete and that the Supplier has complied with all applicable and/or relevant license conditions. The obligations of the Supplier stipulated under items 8.5 and 8.6 represent essential contractual obligations.
- 8.8 In the event of an infringement against items 8.5 to 8.7 above, the Supplier must indemnify us against any possible claims of third parties and any related costs; this shall not apply if the Supplier is not responsible for such an infringement.

## 9 Reservation of title, provision of materials

- 9.1 No retention of title by the Supplier shall become incorporated in the contract unless such title retention expires upon the payment of the price agreed for the goods subject to retention of title and unless we are authorised to resell or further process within the proper course of business. No further retention of title by the Supplier shall be accepted.
- 9.2 As far as we provide parts to the Supplier, we shall reserve ownership thereof. Processing or modifications by Supplier shall be carried out on our behalf. If our goods subject to retention of title are processed with other items not owned by us, we shall acquire co-ownership in the new item at the ratio of the value of our item to the other processed items at the time of such processing. The Supplier shall ensure the proper custody of such objects on our behalf. Where the security rights, to which we are entitled, exceed by more than 10 % the purchase price of all our goods as yet unpaid and subject to retention of title, we shall be obligated to release the security rights at our option upon the Supplier's request.
- 9.3 Any drawing, gauge, model, tool or similar object made available to the Supplier (hereinafter collectively referred to as "Tools") shall remain subject to our absolute title of ownership and shall be marked accordingly. The Supplier shall agree to insure such objects at their replacement values in our favour against any loss or damage by fire, water or theft, and submit evidence showing the existence of such insurance to us. The Supplier shall agree to perform any maintenance work required for our tools at the Supplier's own expense and in a timely fashion; the Supplier shall notify us of any incident with no delay. Such Tools must be in a perfect technical and visual condition when returned. Any cost of repair shall be at the Supplier's expense. Any Tools shall be returned to us by the latest upon the expiry of the agreement or, otherwise, upon our first request; the foregoing shall also apply to any drawing unless the Supplier is requested by us in writing to destroy such drawing and present a written declaration confirming such destruction to us.
- 9.4 No Tools may be made available to any third party, or be used or exploited for any other purpose unless with our written consent. The foregoing shall also apply to any product made using such Tools.
- 9.5 In the event of any supply difficulty, we shall be entitled to request the return free of charge of any Tool provided to the Supplier pursuant to item 9.3 hereof while the Supplier shall not be entitled to any right of retention therein

## 10 Documentary evidence of origin, spare parts and secrecy

- 10.1 The Supplier shall agree to provide us with every certificate of origin, supplier's declaration, statistical commodity code or proof of preferential origin and any other data or document without any delay as required pursuant to the statutory provisions applicable to foreign trade.
- 10.2 Unless as otherwise agreed, the Supplier shall agree to hold available spare parts for any product delivered to us for a period of fifteen (15) years after delivery.
- 10.3 If the Supplier intends to discontinue the production of any spare part for any product delivered to us, the Supplier shall notify us about such circumstance immediately after adopting the decision on such discontinuance. Without prejudice to item 10.2 above, such decision must be taken at least six (6) months before production is discontinued. Until the time of such discontinuation as communicated, we shall be entitled to make further purchase orders for spare parts which shall be performed by the Supplier in a timely fashion and at conditions which are reasonable for us.
- 10.4 The Supplier shall agree to observe strict secrecy with regard to any of our trade secrets or industrial secrets which have been communicated or become known to the Supplier. No such secret must be disclosed to any third party unless with our express prior written consent. Such obligation of secrecy shall survive the termination of the agreement; such obligation shall expire if and where any such trade secret or industrial secret has become known to the general public.

## 11 Minimum wage, export control, RoHS conformity and REACH conformity, Code of Conduct

- 11.1 The Supplier shall agree to pay those of its employees, who are appointed for performing the services ordered, not less than the minimum wage as defined by the German minimum wages act of 11 August 2014. We shall be entitled to request the Supplier to submit written evidence showing the payment of the minimum wage at any time during the performance of any work or service ordered. In such case, the Supplier shall be obliged to provide such written evidence to us without any delay but not later than within three business days after having received such request.
- 11.2 The Supplier shall indemnify us against any claim alleged in the event that any infringement of the provisions set forth in the German minimum wages act is committed by the Supplier or by any of its subcontractors.
- 11.3 Notwithstanding any other right to terminate or rescind any contract or agreement, we shall be entitled to rescind or terminate the contract with immediate effect if the Supplier and/or any of the Supplier's subcontractors culpably infringe(s) upon any of the foregoing provisions or upon the German minimum wages act dated 11 August 2014. The Supplier shall agree to compensate any loss or damage incurred by us in consequence of such rescission or termination. Any claim of the Supplier for non-performance shall be excluded. In other respects, the consequences of rescission and termination shall be governed by the statutory provisions.
- 11.4 The Supplier shall warrant that the Supplier has observed every export regulation applicable to the Supplier and that neither any export prohibition nor any duty to obtain an export permit has been disregarded. The Supplier shall agree to make available free of charge and in good time to us any applicable information to be furnished for observing any export or re-export regulation, also on the composition and origin of any goods delivered by the Supplier, and notify us about any registration of the Supplier's goods in any list of goods kept by the EU, Germany or the USA.
- 11.5 The supplier ensures that the merchandise respectively the products or parts provided by him, unrestrictedly meet the requirements of the directive 2011/65/EU ("RoHS") and of the Regulation (EG) No. 1907/2006 ("REACH") in the currently effective version and also the national regulations, issued when implementing this directive within the Euro-pean Union, and are suitable for RoHS conform und REACH conform manufacturing processes.
- 11.6 We follow the recommendation of ZVEI, the Zentralverband Elektrotechnik- und Elektronikindustrie e.V. (Central Association of the Electrical Engineering and Electronics Industry), and acknowledge our social responsibility according to the versions of the ZVEI Code of Conduct ("CoC"). The supplier commits to comply with the contents of the CoC. This CoC is available at [http://www.jumo.de/en\\_DE/company/sozialkompetenz](http://www.jumo.de/en_DE/company/sozialkompetenz). We will also make the CoC available to the supplier upon the first request.

## 12 Place of jurisdiction, place of performance, final provisions

- 12.1 If the Supplier is a merchant, a legal entity under public law or a special fund under public law, our place of business shall be the exclusive place of jurisdiction for any dispute which may arise in relation with the contractual relationship. But we shall also be entitled to bring action, at our option, at the place of performance applicable to the delivery commitment, or at the Supplier's place of business.
- 12.2 These Terms and Conditions of Purchasing and every legal relationship between us and the Supplier shall be governed by the laws of the Federal Republic of Germany, excluding the UN Sales Convention.
- 12.3 If a Party has to process personal data under the Contract, it will comply the Federal Data Protection Act ("*Bundesdatenschutzgesetz*") and other data protection provisions, including the General Data Protection Regulation (Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016). The Party has to coordinate required data protection measures with the other Party, and enable it to verify compliance with the reached agreements
- 12.4 If any individual item of these Terms and Conditions of Purchasing should become null and void either fully or in part, the agreement shall remain effective in its other respects. Any such ineffective provision shall be replaced by the corresponding statutory provision or, in the absence of such provision, by an admissible arrangement the contracting parties would have made in good faith if they had been aware of such ineffectiveness.