General Terms and Conditions of Purchase
effective: 2014-06-16

I. General remarks
(1) Scope of application
The following terms and conditions apply to all legal relationships between ourselves and the supplier arising from all current orders and deliveries that the parties have not yet fully completed and all future orders and deliveries.
(2) Exclusion of others' terms and conditions of sale
Our purchasing terms and conditions apply to the exclusion of all other terms and conditions. Unless we have expressly consented to their application in writing before the delivery, we do not acknowledge any contrary or different general terms and conditions of the supplier, especially general terms and conditions of sales, delivery and payment. Our purchasing terms and conditions will also apply when, although aware of a supplier’s general terms and conditions that are contrary to or differ from our own, we do not contradict these terms and conditions, or we accept the supplier’s delivery without reservations. Our terms and conditions will be considered as having been acknowledged once the order has been accepted, at the latest however once the deliveries have been dispatched to us. The supplier is required to notify us expressly and immediately in a separate letter should he not agree with this policy. In this case we reserve the right to withdraw our order without being required to meet any claims whatsoever in return.
(3) Validity
Should individual provisions of these purchasing terms and conditions or any individual agreements concluded be or become invalid, this will not affect the validity of the remaining provisions of these general terms and conditions of purchase. Should a provision be invalid, a valid provision approximating most closely to what was commercial intended will be considered as having been agreed.
(4) Written form
Any deviations from the following terms and conditions as well as other amendments or additions to the quotation or to our order must be confirmed by us in writing in order to be valid. This also applies to a waiver of the written form requirement itself. Orders and call-off of deliveries may also be placed by remote data transmission, fax or email.

II. Order
(1) Written order confirmation
The supplier must confirm our orders within five working days at the latest of having received them by remote data transmission, fax or email. Otherwise, we may cancel or change our order at no expense without providing any reasons.
(2) Deviations
A deviation from our order in the delivery is not permitted. The supplier is required to check our order and to notify any inconsistencies in writing. He is also required to draw attention to any difference between his quotation and our order. The supplier will be responsible for any damage incurred thereby in the absence of such notification. We are only bound by a deviation between the order confirmation and our order provided that we have accepted this deviation in writing. The acceptance of deliveries or services provided as well as payments will not signify acceptance. Unless such a change to the contract is deemed unreasonable for the supplier, he is required to accept any change in the goods to be delivered, the quantity of goods or the agreed service we make subsequent to the conclusion of the contract.
(3) Assured qualities
The technical data and specifications contained in quotations, drawings, diagrams and other documents provided by the supplier are binding. Samples we receive are also binding. All public declarations made by the supplier, particularly in catalogues, operating instructions, handbooks or in advertising, contain an offer on the part of the supplier to conclude a warranty contract that is accepted by us in our order. Cost estimates are also binding and free of charge.
(4) Confidentiality, intellectual property and copyright
The supplier is required to treat our order and the specifications and information to which it refers, as well as all commercial and technical data not in the public domain that become known to him as a result of our business relationship, as a business secret and in confidence. The supplier is required to inform us immediately should he learn that an unauthorised third party has obtained information that must be kept secret, or that a document that must be kept secret has been lost. We reserve all rights of ownership and copyright throughout the world to drawings, models, templates, samples, prototypes and similar objects as well as other documents. The same applies to rights to trademarks and names as well as utility models and registered designs and all know-how. These may not be given or otherwise made accessible to third parties without our prior, express, written consent and may only be used for the delivery on grounds of our order. Duplication of such objects is only permitted subject to purpose-bound operating requirements and the provisions of copyright law. They must be returned to us unsolicited once the order has been completed.
(5) Scope of the delivery
In addition to the right to use software with the agreed characteristics of performance forming part of the product delivered, including its documentation, to the extent required for the contractual or customary use of the product, we also acquire rights of use, unlimited as to time, place and content, to the extent permitted by law.
(6) Goods provided by use
Materials, parts, containers, tools, samples, models, templates, drawings, machines, apparatus, packaging or other objects provided by us in order to carry out the contract will remain our property and may only be used according to their proper purpose and as part of this contract. The supplier must treat them carefully, store them properly, carry out repair and maintenance and protect them. Our title will continue to exist in the new article should they be processed or combined with other goods.
III. Rule of precedence
The following order of priority will govern the nature and the scope of services that both parties are required to provide:
- the terms of the order,
- additional contractual conditions as well as general and particular technical specifications referred to in the order,
- these general terms and conditions of purchase.

IV. Sub-contractors
Our prior written consent is required for the involvement of sub-contractors. The supplier is required to impose the same obligations on sub-contractors as those to which he is contractually bound to us.

V. Fulfillment of the order, safety and quality management
(1) Quality assurance
The supplier is required to provide appropriate quality assurance with respect to its nature and scope in accordance with the latest standard of technology and to demonstrate this to us should this be demanded. The supplier will conclude an appropriate quality assurance agreement with us to the extent that we believe this to be necessary. The supplier will, as far as applicable, maintain a quality assurance system, for example in accordance with DIN EN ISO 9000 ff and/or DIN EN ISO 14000 ff. We are entitled to check the system. Irrespective of this, the supplier is required to check the quality of goods he delivers continuously.

(2) Compliance with all regulations
The supplier is required to comply with the currently applicable legal and official regulations, including all the relevant European guidelines and directives as well as our own operating rules and regulations and all acknowledged rules of the particular technology. All contractual products, merchandise, technical machinery and equipment to which special EU guidelines and/or regulations apply must be delivered together with all required declarations and identification, especially the EC declaration of conformity (certificat), RoHS declaration of conformity as well as the appropriate CE labelling, including operating instructions in German.

(3) Hazardous goods
Should the supplier deliver goods that are hazardous within the meaning of the Regulation on Hazardous Goods or that contain other chemicals, he is required to comply with all European and/or domestic obligations and to submit to us, unsolicited, the EU’s safety data sheet (§ 14 of the German Regulations on Hazardous Goods), the materials data sheet as well as all required data and information before the delivery.

(4) Carcinogenic materials
The supplier is expressly forbidden to use carcinogenic materials.

(5) Environmental norms
The specifications stated in the technical documentation must be complied with in product and process planning as well as during manufacturing. The applicable operating norms will apply here in particular. It is recommended that the Supplier’s environmental standards should be continuously and efficiently improved in accordance with international environmental management standards such as DIN EN ISO 14001 or the EC Eco-Audit Ordinance.

(6) Rights of access and audit
The supplier will grant us – and if necessary our customers too – the right to check on site compliance with all agreements made during the course of production. The supplier will be required to carry out a suitable audit should this be demanded.

(7) AEO certificate
The supplier is required to acquire and to retain during the terms of our cooperation the status of an “Authorised Economic Operator (AEO)” in accordance with European customs regulations before carrying out his deliveries or services. The rules of conduct for the AEO must be strictly complied with during the whole period of cooperation. The supplier will be required to sign a safety declaration stipulated by the customer should he be unable to produce an AEO certificate.

VI. Insurance cover
The supplier is required to maintain adequate operating liability insurance cover for deliveries and services during the term of the contract, including guarantee and warranty periods, that takes account of the potential risks of the goods delivered and services provided and to provide for insurance cover against product liability, including the risk of a recall. The supplier is required to produce evidence of this cover should we demand it.

VII. Delivery periods / Delivery dates
(1) Binding date commitments
All information provided by the supplier on delivery dates and delivery periods are binding. The delivery dates and delivery periods stated in the order will apply with a binding effect should the supplier’s quotation not specify any delivery dates or delivery periods.

(2) Delayed delivery
The supplier will be in arrears on expiry of the delivery period or delivery date without any additional reminder or the setting of a grace period. The delivery period or delivery date will be extended as appropriate should the supplier not be responsible for the delay in delivery. A period of seven days will be considered an appropriate extension of the delivery period. We are entitled, at our option, to have the delivery not yet made or service not yet provided carried out by a third party at the supplier’s expense, to demand compensation on account of non-fulfilment, or to rescind the contract on the expiry of an appropriate grace period. Should the supplier only provide a partial delivery or partial service that has not been agreed, we may demand compensation instead of the complete delivery should we not have any interest in a partial delivery or part service. The supplier is required to notify us immediately in writing, stating the reasons and the probable duration of the delay, and obtain our decision should it become clear that a delivery or service will be delayed.

(3) Force majeure
Force majeure, industrial disputes, civil disorder, measures imposed by public authorities and other serious but unforeseeable and unavoidable events will absolve the supplier from fulfilment of the relevant obligation for the duration of the disturbance and to the extent of its consequences. The contractual partners are required to inform each other immediately of all the circumstances and in good faith to adapt the duties to be fulfilled to the changed circumstances. We are entitled to wholly or partially rescind the contract for goods and services ordered.
should they no longer have any commercial use for us due to force majeure, industrial disputes, civil disorder, measures imposed by public authorities and other serious but unforeseeable and unavoidable events.

(4) Punctuality
Whether deliveries are punctual will be determined by our receipt of the goods at the destination stated by us. Whether deliveries that also include assembly or installation and services are on time will be determined by the date on which they are finally accepted.

(5) Refusal to fulfill the contract
A grace period before the contract is rescinded will not be required should the supplier seriously and finally refuse to make the delivery or should the delivery or service be tied to a contractually agreed date that is not complied with or is not carried out within a certain period of time.

(6) Missing documents
Should the supplier not have necessary documents that we are required to provide, he may only invoke their absence should he not have received the documents, in spite of a written caution, within a reasonable period of time.

VIII. Contractual penalty
Should the supplier be in arrears with his delivery or service, irrespective of any other rights, we are entitled to demand a contractual penalty of 0.3 %, subject to a maximum of 10 %, of the agreed gross delivery price for every working day by which the supplier is in arrears. We may assert our right to the contractual penalty until the time payment is made. § 341 par. 3 of the German Civil Code will not apply. We reserve the right to additional claims in law, especially the right to demand compensation for non-fulfilment after an appropriate grace period has expired without the desired results. The supplier is however entitled to prove that we have incurred no damage or only a lower damage as a result of the arrears.

IX. Transfer of risk

(1) Transfer of risk in the case of receipt or acceptance
In the case of deliveries without installation or assembly, the risks of accidental destruction and accidental deterioration will pass to us at the time the goods are handed over at the destination we appoint, and in the case of deliveries in which installation and assembly is included and services at the time the delivery or service is accepted.

(2) Delivery, shipping costs
Unless anything to the contrary has been agreed in writing, the delivery will be made DDP (INCOTERMS 2010) to the destination we have appointed. We are not required to accept partial shipments unless we have expressly accepted this in writing beforehand. Delivery will be made in all cases at the supplier’s risk, even when it has been agreed that the delivery costs will be shared. Unless any written agreement to the contrary has been made, the supplier will as a matter of principle pay the costs of transport and packaging as well as of freight and carriage. The supplier is required to insure the goods at his expense against transport damage. In the case of ex works or ex supplier’s sales warehouse prices, the goods must be sent by the cheapest method unless we have stipulated a particular means of transport. The supplier will in any event bear any additional costs incurred due to delivery requirements not having been complied with. We may also determine the method of transport should prices free to the recipient have been agreed. The Supplier will be required to pay any costs of accelerated delivery necessitated in order to meet a delivery date.

(3) Packaging, delivery notes
The contents of each packing unit must be clearly labelled. Every delivery must be accompanied by delivery notes or packing slips, stating the contents as well as the complete order identification. Packages must identify our product number and the quantity it contains. The delivery must include processing specifications as well as maintenance and service instructions in German. Notice must be given immediately of dispatch, together with the same information.

X. Waste disposal
Unless anything different has been agreed, the supplier will recycle or remove at his own expense and in accordance with the law on waste disposal the waste materials incurred as part of the delivery/service. The supplier will assume title, risk and responsibility in terms of waste disposal law from the moment waste material arises.

(1) Job or sale under contract for goods and services
We are entitled to cancel jobs or sales under contract for goods and services up to the time of completion of the job or sale under contract for goods and services in accordance with § 649 of the German Civil Code. Contrary to the consequences of termination stipulated by law, the following will apply: should we terminate for a material cause for which the supplier is responsible, the supplier will only receive payment for the individual work carried out up the time of termination that we can use. Any additional claims by the supplier are excluded. This will not affect our rights to claim compensation. In particular, the supplier is required to reimburse any additional expenses. Should we terminate for a material cause for which the supplier is not responsible, the supplier will receive the agreed payment for individual work performed and accepted by us up to the time our notice of termination is received. Any additional claims by the supplier are excluded.

(2) Sale of goods
We may cancel the order for the delivery of goods for a material cause at any time up to the time of delivery. In this case, the above provisions will apply as appropriate.

(3) Grave reasons
A grave reason within the meaning of the above provisions is present particularly should we no longer have an interest in deliveries/services being carried out as a consequence of legislative measures, or should the supplier apply for insolvency or the pre-conditions for an application for insolvency exist, or should the supplier fail to comply with his obligation of subsequent fulfillment within a reasonable period of time.

XII. Prices

(1) General price conditions
Provided that nothing to the contrary has been agreed in writing, the supplier’s prices will be considered fixed prices plus the addition of value added tax and are in EURO. Unless our order specifies prices, the list prices that normally apply between us will apply.

(2) Packaging and packaging materials
Only environmentally friendly packaging materials may be used. The supplier will pay the costs of packaging and packaging materials. The supplier will take back packing and packaging material and bear the costs of the return transport. We are also entitled, at our option, to dispose of transport packaging and other packaging material and to deduct the costs of disposal from the supplier’s invoices.

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XIII. Invoices
(1) Invoicing formalities
Invoices must comply with legal requirements and be issued in duplicate. Invoice duplicates must be identified as such. The invoice must specify separately the order identification, individual products and quantities as well as unit and total prices. Invoices may under no circumstances be enclosed with the shipment.

(2) Conditions for payment on the due date
Payment on the due date is conditional on the order identification and other invoice formalities being shown in full.

XIV. Payment
(1) Due date
Unless anything else has been agreed, invoices are due for payment as follows:
- Within 14 days of the invoice date or date the goods are received with 3 % discount.
- Within 60 days of the invoice date or date the goods are received without any deduction.
Should we not receive the invoice and the shipment simultaneously, payment terms will begin at the earliest on the day on which both the invoice and the delivery are in our possession. In the case of services, this will be determined by the date on which the service is provided in full.

(2) Netting of claims or withholding payment
We are entitled to net in full our counter-claims and withhold payment of the supplier’s claims on account of our claims that are due, even should such claims not have been established in law or be disputed. We are also permitted to deduct a cash discount on claims netted or where a right to withhold payment has been exercised. The payment of invoices does not constitute acknowledgement of a legal obligation nor does it represent a waiver of warranty or guarantee or rights on account of defects in the contractually agreed service or of other rights.

XV. Reservation of title
(1) Exclusion of reservation of title
We obtain title to the goods delivered as soon as they are delivered to the destination appointed by us. The agreement of reservation of title is hereby expressly rejected. Any tools, machines or other goods that are our property, made available to the supplier as part of a contract for labour and materials that he is required to fulfill, must be clearly labelled as our property and stored separately. Should these goods be attached whilst in the supplier’s possession, he is required to declare that they are our property and notify us immediately.

(2) Express agreement of reservation of title
Should we expressly agree the application of reservation of title with the supplier, only simple reservation of title will be agreed. Reservation of title will end once the goods are resold or processed or combined with other goods.

(3) Obligation to return goods
Should reservation of title have been agreed and should we fall into arrears in settling our obligations, the supplier is entitled to demand the restitution of the reserved goods. This is, however, subject to an additional written reminder with an additional grace period of at least two weeks. The pursuit of rights under reservation of title will simultaneously be considered a rescission of the contract.

XVI. Warranty
(1) The concept of a defect
The supplier gives an assurance that all his deliveries and services comply with the latest state of knowledge, technology and science as well as the relevant provisions of the law and rules and guidelines imposed by public authorities, employees’ sickness insurance associations and professional associations in Germany, the EU and the country of destination. The supplier also gives an assurance that the products he delivers and the services he provides are of the agreed quality, are suitable for the use customarily made of products of the same type and have the qualities that might be expected on the basis of public pronouncements by the supplier, the manufacturer or his agents, especially in advertising or in claims of particular qualities of the product. Delivery by the supplier of a different product and different quality is equivalent to a defect.

(2) Obligation to examine the goods and report defects
Contrary to § 377 of the German Commercial Code, we are only required to examine the goods for evident defects by means of random samples within two weeks of delivery and to report any defects identified within two weeks at the latest of their having been discovered. The assumption of approval referred to in § 377 of the Commercial Code will only apply with respect to obvious defects should these not have been reported in time. The supplier waives the plea of delayed notice of defects with regard to hidden defects.

(3) Liability for defects of quality
The supplier is required, at our option and at his expense, either to remedy defects that may arise or to deliver new goods or replace the service free of any defects. We are entitled wholly or partially to cancel the contract without any cost to ourselves, or to demand a reduction in the agreed price, or to carry out ourselves, or to have carried out repairs or replacement with new goods, or to demand compensation instead of service, should the supplier fail to remedy the defect or replace the goods or repair the service within a reasonable period of time to be set by us. In cases of particular urgency, especially where delay would entail danger, we are also entitled to remedy the defect ourselves. The same will apply should the supplier declare his inability to remedy the defect or provide a replacement delivery or repair the service within a reasonable period of time. We are entitled to block the whole lot delivered temporarily and to demand a 100 % check on the goods or to return the shipment should we establish defects in individual parts of a delivery. The supplier will bear all the costs of finding the defect. We are also entitled to demand as compensation damage, including losses of income, incurred as a result of a breach of obligations, without the supplier necessarily being responsible for the breach of obligations. The amount of our claim for compensation is not limited. The supplier is required to pay all necessary costs incurred in looking for defects and subsequent fulfilment, particularly the costs of personnel, transport, travel, labour and materials. Should claims for compensation or on account of product liability be lodged against us by our customers or by third parties, the supplier is required to release us of such claims on the first occasion of being asked to do so and to reimburse any costs incurred, especially the costs of recalls, should his delivery or service or any other act on his part be the cause of these claims. In the event of the supplier’s liability for cases of damage within the meaning of this paragraph, he is required to reimburse any expenses in accordance with §§ 823 and 870 of the German Civil Code and in accordance with §§ 830, 840, 426 of the German Civil Code incurred as a result of or in connection with a recall action carried out in accordance with our best judgement. We will, as far as possible and reasonable, inform our supplier of the nature and scope of the recall measures that are to be taken and provide him with the opportunity to express an opinion. This will not affect any other legal claims.
(4) Warranty period
Unless any different warranty periods have been expressly agreed in writing, defects of quality will become time-expired after a period of 36 months, calculated from the time of delivery to our customers, at the latest however 40 months after delivery to us. The regulations on time limitation in §§ 438 I 2, 479 I and 534 a I 2 of the German Civil Code will also apply. Should we opt for a replacement delivery in choosing between warranty alternatives, the warranty period for the replacement delivery will begin again from the time it is received at its destination.

(5) Return of defective goods
The costs and the risk of a return of defective goods will be borne by the supplier.

XVII. Defects of title, commercial proprietary rights, copyrights
(1) Defects of title/proprietary rights
The supplier gives an assurance that his deliveries and services are free of defects of title, and particularly free of third parties' commercial proprietary rights and copyrights. Accordingly, the Supplier will indemnify us on the first occasion of being asked to do so for all claims by third parties that might arise from defects of title or an infringement of proprietary rights. Defects of title will become time expired after ten years.

(2) Defence measures
The supplier will immediately consult with us on all measures taken to resist claims on account of defects of title and proprietary rights and immediately carry out these measures at his own expense.

(3) Additional claims
All additional claims on account of other defects of title are unaffected and may not be excluded by the supplier.

XVIII. Burden of proof
Should a defect in quality become evident within six months of the transfer of risk, it will be assumed that the goods were already defective at the time risk passed unless this assumption is incompatible with the goods or the defect. Should the legitimacy of our claims for compensation or other warranty claims depend on responsibility on the part of the supplier, he will be required to prove that he is no way to blame. Blame on the part of vicarious agents and other contractual partners will be attributed to the supplier.

XIX. Other matters
(1) The purchaser's right of cancellation
The assertion of our right to cancel the contract does not pre-suppose any blame on the part of the supplier.

(2) Assignment of claims
The supplier may only assign claims due to us with our written consent.

(3) Subcontracting orders
The sub-contracting of orders to third parties without our prior written consent is not permitted and will entitle us either to demand compensation or to wholly or partially cancel the contract.

(4) Advertising
References to our company in any kind of advertising material or otherwise in a suitable manner for advertising purposes is only permitted subject to our express written consent.

(5) Data protection
The supplier is hereby notified, in accordance with § 33 I of the German Federal Data Protection Law (abbreviated in German to “BDSG”), that we process automatically and store electronically contractual parties' data in a form that is machine legible and for functions arising from this contract.

XX. Place of fulfilment and of jurisdiction / applicable law
(1) Place of fulfilment
The place of fulfilment for services owed by both parties under the contract is Nuremberg.

(2) Place of jurisdiction
The sole place of jurisdiction for disputes arising directly or indirectly from the contractual relationship is Nuremberg. We are however entitled to pursue claims at any other authorised place of jurisdiction.

(3) Applicable law