

General Terms and Conditions of Purchase 2015

1. APPLICABILITY

These general terms and conditions of purchase ("Terms and Conditions") shall apply exclusively for any and all purchase of products and/or services by the purchasing company identified on the purchase order and/or written purchase agreement ("Purchaser") from supplier ("Supplier") unless otherwise agreed in writing between Purchaser and Supplier ("Parties"). These Terms and Conditions along with the corresponding written purchase agreement and/or purchase order constitute the "Purchase Agreement" as such used herein. These Terms and Conditions shall supersede and exclude any other terms and conditions of sale or purchase even if the Purchaser has not explicitly excluded them. Modifications and amendments to these Terms and Conditions or the Purchase Agreement shall be valid only if the Parties agreed in writing.

2. DEFINITIONS

"Products" shall include any products, material, components, equipment, spare parts, documentation and services such as installation and testing of the Products, which are necessary for operation or the intended use of the Products. The Products shall include the software necessary for operation of the Products and embedded in and delivered as part of the Products.

"Services" shall include all work, services and other necessary works, components, materials and spare parts, even if they are not expressly included in the specifications or other documentation relating to the Services.

The Products and Services shall at all times meet specifications, instructions, drawings, testing and all quality and technical requirements for Product and Services as well as environmental requirements set in the Purchase Agreement.

"Delivery" shall mean the completion and delivery of the Products and/or performance of the Services in accordance with the Purchase Agreement. Delivery shall include all necessary documentation, including but not limited to technical documentation, reports, instructions and manuals enabling the use, installation, operation, maintenance and repair of the Products or created, acquired or developed by Supplier or any party in connection with the Products and the Services.

"End-User" is the customer of Purchaser purchasing the end product of which the Product and/or Services form a part.

3. COMPLIANCE WITH LAWS, REGULATIONS AND POLICIES

Supplier shall all times and at its own cost ensure that the Products including the design, manufacture, and documentation of and accompanying the Products and the performance of the Services fully comply with all applicable laws and regulations including but not limited to the requirements of any safety and environmental laws, regulations and standards. The Products shall include all safety devices and instructions required by the law or specification and shall meet or exceed industry best practices. Supplier agrees to strictly comply with Global Supplier Manual, Environmental Policy and Code of Conduct.

4. CHANGES

The Products and/or Services will be part of end products for which operational safety is an absolute requirement. Supplier has no right to make or undertake any changes in the Products, specifications, raw materials, quality of raw materials, place of manufacturing, agreed manufacturing processes, design and dimensions of the Products including tolerances or any other comparable changes that possibly may affect the safety, operation, quality of the Products and/or Services, Delivery Time or the correct fulfilment of the Purchase Agreement without Purchaser's prior written consent.

5. INSPECTIONS AND QUALITY CONTROL

Supplier shall be responsible for the quality of the Products and/or Services and carrying out the necessary inspections and tests at its own cost and deliver inspection and test reports and certificates at Purchaser's demand. Purchaser shall be allowed free access to the facilities of Supplier at reasonable times for the purpose of inspecting or testing the Products, manufacturing processes and the quality.

Any acceptance of inspections or testing of the Products, Supplier's technical documents or drawings, or supervision of design work or manufacturing by Purchaser or End User, shall not to any extent release the Supplier from any of its obligations or limit Purchaser's right to make claims relating to the Products or Services.

6. PACKING, MARKING AND STORAGE

The Products shall be packed appropriately with regard to the nature and means of transportation of the Products, and in accordance with any instructions of Purchaser as to the manner, size, weight or other aspects of the packing.

Supplier shall clearly mark the Products with identity of the recipient, place of destination and any specific instructions necessary for handling and storage.

7. DELIVERY

Unless otherwise agreed in writing, the delivery terms shall be DDP (Incoterms 2010) the place of ordering unit of Purchaser. The place of performance of the Services shall be agreed in the Purchase Agreement.

The Products shall be delivered to the Purchaser and/or Services shall be performed in accordance with the delivery time agreed in the Purchase Agreement ("Delivery Time"). No Products shall be delivered or Services shall be performed prior to the Delivery Time. Time is of the essence with respect of the performance of Supplier's obligations under these General Terms and Conditions and or Purchase Agreement.

Title to the Products shall pass to the Purchaser at the Delivery.

8. DELAY BY THE SUPPLIER

In case Supplier anticipates delay, it shall immediately notify Purchaser in writing, identifying both the cause and estimated duration of the delay. This does not limit Supplier's liabilities resulting from late delivery.

In case the Delivery Time is exceeded for any reason other than Force Majeure, or for a reason solely attributable to Purchaser, Purchaser shall be entitled to compensation as liquidated damages. Unless otherwise agreed in the Purchase Agreement, the amount of liquidated damages shall be one per cent (1 %) of the purchase price of the Purchase Agreement for each day beginning the first calendar day on which Delivery Time is exceeded, up to the maximum of fifteen per cent (15 %) of the Purchase Price. In the event the Supplier's delay continues after the maximum amount of the liquidated damages has materialized, the Purchaser shall be entitled to immediately terminate the Purchase Agreement. In order to claim liquidated damages, it is not necessary for Purchaser to prove that actual damage resulted from the delay. The Purchaser's is further entitled to all other damages and remedies permitted by the law.

9. PRICES, PAYMENT TERMS AND RIGHT TO WITHHOLD

The total price payable for the Products or Services shall be specified in the Purchase Agreement. The purchase price shall include all applicable taxes and duties, bank charges as well as all other expenses Supplier may incur through its performance of the Purchase Agreement, including but not limited to packing, handling, marking, storage, product testing and other similar costs.

Any adjustment to the purchase price shall be agreed by Purchaser separately in writing.

The date of invoice shall not be earlier than the date of Delivery.

Purchaser is entitled to withhold payment to the extent the Delivery is not completed in accordance with the requirements of these General Terms and Conditions and/or the Purchase Agreement.

10. ACCEPTANCE OF THE DELIVERY

After the Delivery to Purchaser or End User and successful completion of inspections and tests, Purchaser will give acceptance for the Delivery provided that the Delivery meets the specifications and requirements of the Purchase Agreement, and provided Purchaser or End User has received all agreed documentation.

Acceptance of the Delivery shall not to any extent release Supplier from any of its obligations and shall not limit Purchaser's right to compensations or any other remedies relating to the Delivery.

11. WARRANTY

Supplier hereby warrants that the Products and Services strictly complies with the specifications and other quality and technical requirements of the Purchase Agreement, samples and descriptions, as well as applicable laws, regulations and industry standards.

The Products and Services shall be free from any defect in materials, workmanship or design and fit for their ordinary and intended purpose. The Services shall be performed in a workmanlike manner, with the accurate and professional diligence, and in compliance with the best current practices in the industry and highest engineering or other applicable professional standards.

The warranty period shall be 24 months from the acceptance of End User or 36 months from the acceptance of Purchaser, whichever expires earlier ("Warranty Period"). The Warranty Period shall be renewed for repaired, or replaced Products or re-performed Services starting from the date when the repair, replacement or re-performance was approved by the Purchaser or the End User.

During the Warranty Period, any defective or otherwise non-conforming Products or Services shall at the sole discretion of Purchaser be repaired, replaced, re-performed or refunded by Supplier without delay and without any cost to Purchaser or End User including but not limited to inspection, installation, dismantling, and labour and transportation costs.

Should Supplier refuse or fail to fulfil its warranty obligation to Purchaser's satisfaction within a reasonable period of time, Purchaser shall be entitled to have repair, replacement or re-performance carried out at Supplier's expense. The same right shall accrue to Purchaser, if in case of urgency and in order to mitigate costs Purchaser reasonably finds it inappropriate to wait for Supplier to carry out the work.

The warranty obligation of Supplier does not limit Supplier's liability and any rights to damages of Purchaser.

12. AVAILABILITY OF THE PRODUCTS AND SPARE PARTS

Supplier warrants the availability of the Products as spare parts under commercially reasonable terms for a period of ten (10) years after the Delivery of the Products.

13. INTELLECTUAL PROPERTY RIGHTS

All data, documentation, specifications drawings and technical documents, as well as other information delivered or paid by Purchaser shall remain the exclusive intellectual property of Purchaser and shall not be used by Supplier for any other purposes than for the performance of the Purchase Agreement. In case no separate software license has been agreed by the Parties, Supplier grants to Purchaser, and/or to any third party designated by Purchaser a worldwide, royalty-free, irrevocable, perpetual, non-exclusive, transferable and sub-licensable license to use, distribute, reproduce and copy, adapt, develop and modify any software included in the Products and/or Services in any media without limitations. Supplier is responsible for procuring licenses at its sole cost to any third party software included in the Product and/or Service in accordance with the foregoing.

Supplier grants to the Purchaser an unlimited, worldwide, royalty-free, irrevocable, perpetual, non-exclusive and sub-licensable license to use, reproduce, modify and incorporate Supplier's materials such as manuals, instructions, drawings, text, visual designs and displays into Purchaser's materials.

Supplier shall not have the right to use or make any reference to any of the Purchaser's trademarks.

Supplier warrants that the Products do not infringe any patents, trademarks, copyrights, design rights or any other intellectual property rights of third parties. In case of infringement Supplier shall, at Purchaser's discretion, indemnify, defend and hold harmless Purchaser for all consequences of any infringement on patent rights, trademarks, designs or other intellectual property rights caused by the manufacture, processing, use or sale of the Products and/or secure non-infringing Products. The obligation to indemnify, defend and hold harmless shall survive the termination of the Purchase Agreement.

14. INDEMNIFICATION

As Purchaser's international operations demand promptness and reliability, Supplier appreciates and accepts that Supplier shall fulfil all of its obligations with particular care, and even a minor breach may cause considerable damage to Purchaser and End User.

Any damages and costs incurred by Purchaser or End User due to any breach by Supplier or its subcontractor shall be compensated for in full by Supplier.

The Supplier shall defend, indemnify and hold the Purchaser harmless against losses and claims for injuries or damage to any person or property which is related to, arises out of or is in connection with performance of the Purchase Agreement by the Supplier or its subcontractor (and against all claims, demands, proceedings, damages, costs, charges and expenses in respect thereof or in relation thereto). The obligation to indemnify, defend and hold harmless shall survive the termination of the Purchase Agreement.

Neither party shall be liable for any indirect damages nor losses unless such damage is caused by gross negligence, wilful misconduct, breach by the Supplier of the Intellectual Property Rights or Confidentiality, or claims arising under the Supplier's indemnification obligations in this Article. It is explicitly agreed that any limitation of liability is not applicable to damage or losses arising out of death or personal injury. Damages incurred by the End User shall not be considered as indirect damages.

15. INSURANCE

Supplier shall maintain at its own expense general liability insurance (including product liability) in a sum no less than EUR 2,000,000 for each occurrence or accident. Upon demand, Supplier shall submit certificates of the insurances to Purchaser. The obligation to maintain insurances shall not affect or limit Supplier's and its subcontractors' liability by law.

16. FORCE MAJEURE

Neither party shall be liable to the other for delay or non-performance when caused by an event of Force Majeure.

Force Majeure shall mean unforeseen events, which occur after the signing of the Purchase Agreement and which are beyond the reasonable control of the parties including but not limited to war, acts of government and, natural disasters, insofar as such an event prevents or delays the affected party from fulfilling its obligations and such party is not able to prevent or remove the Force Majeure without unreasonable expense.

The party claiming Force Majeure shall prove the effect on its performance, and immediately take reasonable measures to mitigate the consequences and inform the other party in writing of the commencement time, expected duration and the end of the Force Majeure.

If the party's performance is delayed more than three (3) months as a result of a Force Majeure, either Party may terminate the Purchase Agreement by sending a written notice.

17. EXPORT CONTROL

Supplier shall comply with all applicable export control, customs and foreign trade regulations. Supplier shall advise Purchaser in writing within two weeks of receipt of the order - and in case of any changes without undue delay - of any information and data require to comply with said regulations. Supplier shall be liable for any expenses and/or damages incurred by Purchaser due to any breach of the obligations according to this article.

18. CONFIDENTIALITY

Supplier and its subcontractors shall keep confidential and shall not disclose to any third parties or use for any other purposes than those defined in the Purchase Agreement any confidential information, including but not limited to technical, commercial, business related, financial or company information, the existence and contents of the Purchase Agreement, confidential information of Purchaser and its affiliated companies ("Confidential Information").

Supplier shall not use or refer to Purchaser's name for any purpose in any public or private releases.

Supplier shall limit access to the Confidential Information to those of its own personnel and subcontractors for whom such access is necessary for the proper performance of the Purchase Agreement, provided they are bound by written confidentiality obligations not less restrictive than herein.

Supplier shall, upon the termination of the Purchase Agreement or at Purchaser's request and discretion, immediately return all Confidential Information (including copies) to Purchaser or destroy all Confidential Information and provide a certification of such destruction. The obligation of confidentiality shall survive the termination of the Purchase Agreement.

19. TERMINATION

Purchaser has a right to immediately terminate the Purchase Agreement or any part of it and without any liability towards Supplier in the event that

a) Supplier is in material breach of its obligations under the General Terms and Conditions and/or the Purchase Agreement and has failed to remedy such breach within thirty (30) calendar days of a written demand by Purchaser. Supplier's material breach includes the Delivery failing to meet the specified quality and/or safety requirements; or

b) any proceeding of bankruptcy, liquidation, receivership or insolvency shall be commenced by or against Supplier or its property, Supplier is made to be governed by an appointed receiver or trustee or to execute an assignment for the benefit of the creditors, or it becomes otherwise clear that Supplier as a result of its financial or other difficulties is unable to fulfil its obligations in accordance with the Purchase Agreement.

Purchaser reserves the right to terminate with immediate effect all or any part of the Purchase Agreement at its convenience by notice in writing. In such case Supplier shall immediately stop the work referenced in Purchaser's notice and protect any work completed as of such date and Supplier is entitled to a reasonable termination charge consisting only of the actual direct costs associated with the Products/Services already produced/performed by the date of the notice. Upon termination for any reason, Supplier shall immediately return all specifications, drawings and technical documents, material and tooling and any other Purchaser's property.

20. ASSIGNMENT AND SUBCONTRACTING

Supplier may not transfer, assign or subcontract the Purchase Agreement or any part of its obligations without prior written consent of Purchaser. Supplier shall be liable for the work of his subcontractors as for his own.

21. APPLICABLE LAW AND DISPUTES

The Purchase Agreement shall be governed by and construed in accordance with the laws of Purchaser's place of business, excluding its choice of law and the United Nations Convention on Contracts for the International Sale of Goods unless otherwise agreed in the Purchase Agreement.

The disputes shall be finally settled under the Arbitration Rules of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said rules. The arbitration shall take place in the location of Purchaser's place of business. The language of the arbitration proceedings shall be English. The parties agree to recognize the decision of the arbitrators as final, binding and executable. The arbitration shall be the exclusive remedy for the parties to the dispute regarding claims or counterclaims presented to the arbitrators. Purchaser is entitled to seek interim measures in court.