

## General Terms and Conditions Conditions of Purchase Status October 2013

### Section 1 - Scope of Application

(1)  
Our (hereinafter referred to as "AWS") Conditions of Purchase shall apply exclusively. Opposing or deviating conditions of the supplier from our conditions shall not be recognised.

(2)  
Our Conditions of Purchase shall only apply to business people as laid down in Section 310 of the German Civil Code.

(3)  
Our Conditions of Purchase are also applicable for all future business with the Supplier.

(4)  
The following Conditions of Purchase shall apply for the delivery of movable goods (Section 651 of the German Civil Code). For services, relating to repairs and service work, the following conditions shall apply with the exception of Lines 4, 5 and 9; the included statutory conditions shall hereby apply.

### Section 2 - Placing of Orders

(1)  
An order shall only be binding if it is placed in writing, made by fax or otherwise by telecommunication; orders placed by telephone shall only be binding if they are then confirmed in writing by AWS. An order confirmation by the supplier shall not be required. Other possible agreements shall require the subsequent written confirmation by AWS, for which a fax or email shall suffice.

(2)  
Each order shall be based on these Conditions of Purchase. Should the General Terms and Conditions of the supplier conflict with the Conditions of Purchase of AWS, the Conditions of Purchase of AWS shall apply nonetheless if the supplier does not object in writing within 3 days of receipt of the order by fax or email. The transmission of contrary General Terms and Conditions of the supplier or a further reference to his/her General Terms and Conditions shall not suffice. Objection shall be negligible if the supplier begins execution of the orders and informs AWS of this. Should a quality assurance agreement, framework agreement or individual agreement exist between the supplier and AWS, this shall proceed in every case provided that it deviates from the AWS Conditions of Purchase or the General Terms and Conditions of the supplier.

### Section 3 - Conditions of Payment/Prices

(1)  
Supplier invoices shall be paid net by AWS, unless otherwise agreed in writing, within 14 days of receipt of goods and invoice with a 3% discount, within 30 days of receipt of goods and invoice with a 2% discount, and within 60 days of receipt of goods and invoice.

Furthermore, the due date for payment shall assume a fault-free delivery.

The supplier is required to submit the invoice in duplicate to AWS.

Upon supplier invoicing, the AWS order number and if appropriate the AWS item number must be specified. Should the invoice not be submitted in duplicate or the numbers listed above be missing or incor-

rect, AWS reserves the right to return the invoice unpaid to the supplier for amendment or correction. In these cases the term of payment shall begin only upon receipt of the amended or corrected invoice.

(2)  
Modifications made on the basis of subsequent increases in costs shall be excluded, unless otherwise agreed.

(3)  
AWS shall be notified immediately in writing of any additional charge or price reduction due to changes in execution. The additional charge or price reduction shall require, in order to become binding, written confirmation by AWS before production and delivery of the ordered items.

### Section 4 - Terms of Delivery

The ordered item shall be delivered according to INTERCOMS 2010 "CIP" (Carriage and Insurance Paid to) to the delivery address specified in the order. Should the supplier deliver from abroad, the INTERCOM 2010 Condition "DDP" (Delivered Duty Paid) shall apply. The delivery shall take place according to the valid GGVSEB conditions. The delivery papers of the supplier must show the AWS Order Number, if appropriate the AWS Item Number, the Goods for Foreign External Trade Number, the part weight and the country of origin.

### Section 5 - Transfer of Risk/Place of Delivery

Upon delivery of the ordered item to the delivery address specified in the order, the risk of accidental loss or deterioration shall pass over to AWS. The place of delivery shall be the place of the delivery address specified in the order.

### Section 6 - Regulation of the International Movement of Goods

The supplier is required to present a long-term supplier declaration for all goods delivered to AWS by him/her. The supplier shall bear liability in the event of non-compliance of this obligation or in the event of the issue of non-compliant declarations directed to AWS for all damages arising thereof. The supplier is required to verify whether his/her products are subject to international prohibitions on movement of goods, restrictions and/or licensing obligations and to indicate this correspondingly where relevant in his/her proposals, order confirmations and all shipping documents. In the event of non-compliance with this obligation the supplier shall be fully liable for damage resulting therefrom at AWS.

### Section 7 - Delivery Time/Delay in Delivery

(1)  
The delivery time specified in the order shall be binding. Decisive for compliance with the delivery date/deadline is the date of receipt of goods by AWS.

(2)  
Should the delivery time be fixed in accordance with the above Line 1, on the calendar or allowed to be on a particular event (e.g. receipt of the order) to be calculated by the calendar and the term is appropriate, the supplier shall be in default without warning.

(3) Should the contractual parties explicitly reach a differing regulation from Line 1 and the payment of the supplier be due, he/she shall be in default by warning of AWS.

(4) In the event of default AWS shall be entitled to compensation for default damage. AWS shall be entitled to demand lump-sum default damages of 2.5% of the delivery value for each full calendar week, however not amounting to more than 10% of the total value of delivery. Further statutory claims shall be reserved. The supplier shall be entitled to furnish evidence that less damage or no damage has occurred as a consequence of the default.

The unreserved acceptance of a late delivery or performance does not constitute a waiver of compensation for default damages.

(5) Should the supplier receive an appropriate term for the supplementary performance, AWS can withdraw from the agreement after fruitless expiry of the term and/or demand compensation for damages in lieu of performance.

(6) Withdrawal shall not assume fault on the part of the supplier.

(7) Part deliveries are in principle inadmissible, unless AWS has consented or they are reasonable for AWS.

#### **Section 8 - Obligation to Notice of Defects**

AWS or the direct delivery addressee shall be required to examine goods within a reasonable period for any deviations in quality or quantity. In the case of apparent defects, the corresponding complaint shall be promptly made, insofar as it is made within a period of 10 working days (5-day week) of determination to the supplier, in the case of concealed defects this should be done within two weeks.

#### **Section 9 - Description of the Ordered Item**

Insofar as the supplier receives invoices, samples, information or other requirements from AWS, they shall be solely decisive for the type, condition and design of the ordered item or that of the yielding performance. In the event that AWS requires an out-turn or initial sample, it may begin only with the series production, after AWS has approved the sample or line of samples in writing and released them.

Supplier concerns regarding AWS specifications shall be submitted immediately in writing to AWS before the beginning of the series production. In such cases series production must be commenced only on the basis of a further written instruction by AWS.

#### **Section 10 - Guarantee/Term of Guarantee/Warranty**

(1) The supplier shall be informed that the ordered item can also be installed in AWS products and therefore the full operation capacity of the ordered item must be warranted. In this regard the supplier shall, in the event that he/she did not manufacture the ordered item himself/herself, inform the manufacturer or supplier.

(2) The supplier shall guarantee absence of defect of the ordered item for a duration of 36 months, beginning with its acceptance, to which the full operation capacity and the agreed condition belong in particular.

(3) Acceptance is the time from when AWS or the delivery addressee has the possibility to verify the ordered item with regards to the usual course of business of AWS or the delivery addressee.

(4) AWS shall be entitled to statutory warranty claims in full. As an agreement on the condition those product descriptions shall also apply, which - in particular by designation or reference in the order - are the item of the respective agreement or are included in the agreement. It makes no difference whether the product description comes from AWS, from the supplier or where relevant from a third manufacturer. AWS can demand supplementary performance, namely a choice of the removal of the defect or the delivery of an object free from defects. This also includes expenses arising from defectiveness of products, which then again arise through combination, commingling or processing with the ordered item.

If AWS sets the supplier an appropriate period of time for this, AWS accepts after expiry of the term the full operation capacity in accordance with Sections 437, 440, 441 of the German Civil Code, referring in particular to the right to reduce or the right to withdraw from the agreement and in addition the withdrawal from claims for damages rather than the performance or instead from the claim for reimbursement of wasted expenses. Restrictions of warranty in the General Terms and Conditions of the supplier shall not be accepted. There is an agreement that operation capacity as laid down in the above conditions only exists if the relevant accident prevention regulations are also observed.

The costs incurred by the supplier for examination and improvement will also be borne by them when it is revealed that no defect actually existed. AWS liability for damages in the case of unauthorised requests to correct deficiencies shall remain unaffected; in this respect AWS shall only be liable if AWS recognises or is grossly negligent in failing to recognise that no defect existed.

The prescribed claims for compensation within a supply chain (Sections 478, 479 of the German Civil Code) are fully accepted by AWS in addition to claims for defects.

#### **Section 11 - Product Liability**

(1) Should claims be asserted against AWS by a third party on the basis of product liability, the supplier is thereby required to exempt AWS within the framework of his/her own obligation in accordance with the German Product Liability Law upon the first request for claims for punitive damages. This shall also apply for damages resulting from a product recall.

(2) The supplier undertakes to maintain a product liability insurance with a coverage amount of EUR 5 million per instance of personal injury/material damage. The supplier shall demonstrate evidence of this to AWS upon request.

#### **Section 12 - Reservation of Title**

Insofar as AWS provides parts to the supplier, AWS reserves the right to ownership. Processing or modification by the supplier shall be carried out exclusively for AWS. In the event of processing or commingling AWS shall gain joint ownership of the new objects in proportion to the value of the parts provided by AWS to the other processed items at the time of processing.

Upon delivery of the goods to AWS the ownership is transferred immediately to AWS. A supplier reservation of title shall not be recognised by AWS.

### **Section 13 - Rights of Third Parties, Trade Mark Rights**

The supplier shall guarantee that all deliveries and performances are devoid of rights of third parties, even if he/she advised of the existence of such rights upon acceptance of the order or thereafter, he/she shall nevertheless carry out the agreement.

In particular the supplier shall guarantee AWS that that no rights of third parties are infringed by the delivery of the ordered item. If AWS gains knowledge of such a legal infringement or of third-party rights, or if a claim is made directly against AWS by a third party due to such legal infringements, the supplier must immediately remedy the legal infringement or third-party right and/or hold AWS harmless from any claims arising from a possible legal infringement or third-party right. Should AWS have set the supplier an appropriate term for this, AWS can withdraw from the agreement upon expiry of the term and demand compensation in place of delivery or the reimbursement of wasted expenses.

### **Section 14 - Preliminary Work**

Furthermore, if an order is not placed the processing of designs, accounts, calculations, supply etc. shall be free of charge for AWS, unless otherwise agreed.

### **Section 15 - Rights of Withdrawal and Termination**

AWS shall be entitled to statutory rights of withdrawal from or termination of the agreement with immediate effect, if

- the supplier discontinues the supply to its customers,
- a considerable deterioration of supplier financial circumstances occurs or impends and the fulfilment of the supply obligation to AWS is hereby at risk,
- the supplier enters a state of liquidity or overindebtedness or
- the supplier discontinues his/her payments.

Statutory rights and claims shall not be limited by this regulation. Provided that the AWS withdraws from the agreement or terminates it on the basis of this regulation, the supplier shall compensate AWS for the damage incurred thereof, unless he/she is not responsible for the occurrence of the reason for withdrawal or termination.

### **Section 16 - Confidentiality**

The supplier shall be required to treat all images, drawings, calculations and other documents and/or information it receives as strictly confidential. Third parties should only obtain business and trade secrets with prior written consent from AWS. All documents made available by AWS are exclusively owned by AWS. Products, for which furnished documents are produced by AWS such as drawings, models and confidential information, may neither be used by the supplier himself/herself nor offered or supplied to third parties.

This confidentiality obligation shall also continue to apply after termination of the agreement. In particular the supplier shall not use the knowledge for his/her own manufacturing processes or for deliveries to competitors of AWS. For new features AWS reserves all rights, in particular in the case of patent award or listing of a registered design.

### **Section 17 - Place of Jurisdiction**

(1)

The place of performance is the place of business of AWS or of the agreed delivery addressee.

(2)

The place of jurisdiction is decisive, as far as legally permissible, depending on factual jurisdiction of the place of business of AWS in Forchtenberg.

AWS shall also be entitled to file a suit at the business headquarters of the supplier or at any other permitted location.

### **Section 18 - Applicable Law/Language of the Agreement**

The law of the Federal Republic of Germany is applicable for all disputes arising indirectly or directly from the contractual relationship.

The application of the United Nations' Convention on the International Sale of Goods (CISG) is excluded.

The language of the agreement is German.

### **Section 19 - Partial Ineffectiveness of Conditions of Purchase**

Should individual provisions of the Conditions of Purchase be or become invalid, the validity of the remaining provisions shall remain unaffected. Ineffective provisions shall be replaced by effective provisions which closely resemble their purpose.