

General Terms and Conditions of Purchase of IST METZ GmbH & Co. KG **As at 05.2020**

§ 1 Scope

(1) The following terms and conditions of purchase apply without exception to all our contracts and orders concerning deliveries and other services. We do not recognise any general terms and conditions of the supplier contrary to or differing from our terms and conditions of purchase, even if we do not expressly object to these. In particular, our terms and conditions of purchase shall still apply even if we unreservedly accept deliveries of products and other services of the supplier whilst being aware of conditions of the supplier contrary to or differing from our terms and conditions of purchase.

(2) The applicable valid version of our terms and conditions of purchase shall also apply to all future deliveries and services provided by the supplier to us. On issuing subsequent orders, we will make the updated version of our terms and conditions of purchase accessible to the supplier as applicable.

(3) Our terms and conditions of purchase only apply vis-à-vis entrepreneurs within the meaning of § 14 of the German Civil Code (BGB) and vis-à-vis legal entities under public law as well as special assets under public law.

§ 2 Conclusion of contract and alterations to contract

(1) All our orders and requests for delivery, as well as changes and additions to these, must be in written form. Requests for delivery can also be made by remote data transmission or by telefax.

(2) If the supplier does not accept our order within two weeks following receipt, we shall be entitled to cancel the order.

(3) All agreements between us and the supplier are to be recorded in writing on conclusion of the contract and require the written confirmation of our purchasing department to become effective. This also applies to the agreements following this conclusion of

the contract, in particular to changes and additions to these terms and conditions of purchase, including this written form clause.

(4) Cost estimates are binding and will not be remunerated unless otherwise expressly agreed.

§ 3 Scope and content of the obligation to perform

The scope of the Supplier's obligation to perform is determined by the specifications and performance descriptions provided when the contract was concluded or, if these are missing, by the information contained in the Supplier's offers and brochures.

All deliveries must comply with the latest DIN and/or VDE standards as well as other industry or EU standards and regulations (see IST house standard N0 610 01 (https://www.ist-uv.de/fileadmin/user_upload/Unternehmen/Material_Compliance_DE.pdf), unless otherwise expressly agreed in writing. The supplier therefore undertakes, among other things, to comply with the requirements of the EC Regulation 1907/2006/EC (hereinafter „REACH Regulation“) and the EC Directive 2011/65/EU (hereinafter „RoHS Directive“) in the version valid at the time of delivery and to fulfil all obligations which apply to a supplier under the REACH Regulation and the RoHS Directive. He will provide IST Metz with a safety data sheet in accordance with Article 31 of the REACH Regulation. In addition, the supplier shall inform IST Metz without being asked and immediately prior to delivery if a component or the packaging of a product contains a substance within the meaning of Articles 57 to 59 of the REACH Regulation („substance of very high concern“) in a mass concentration of more than 0.1 percent. He guarantees that all goods comply with the requirements of the RoHS Directive and will also confirm the RoHS conformity in writing to IST Metz. IST Metz will only accept the quantities or numbers of items ordered. Over- or underdeliveries are only permitted after prior agreement with IST Metz. If partial

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quantities have been agreed, the supplier is obliged to inform IST Metz of the remaining quantity for each partial delivery.

The supplier must pack, label and dispatch the goods in accordance with the relevant regulations of the countries of origin, transit and destination, and must observe the relevant valid regulations of IST Metz.

§ 4 Delivery and passing of risk

(1) Unless otherwise agreed, the supplier shall deliver the goods free to factory, Nürtingen, or free to factory, our branch warehouse, duty paid and insured, including packaging.

(2) The performance and price risk shall in any case only pass to us once the goods and services have arrived at our premises or at the point of destination named by us.

§ 5 Delivery time, partial performance

(1) The agreed deadlines and periods are binding.

(2) Requests for delivery shall become binding at the latest if the supplier has not objected within five working days of receipt.

(3) Definitive for compliance with the delivery deadline or the delivery period is the date of receipt of the goods at our premises or at the point of destination named by us. If delivery free factory has not been agreed, the supplier shall make the goods available in good time, taking into account the time for loading and shipment to be agreed upon with the forwarder.

(4) Should the supplier foresee difficulties with regard to compliance with the delivery deadline or other such circumstances which could prevent punctual delivery or delivery to the agreed quality standard by the supplier, we must be notified immediately in writing, with indication of the reasons for and the probable duration of the delay.

(5) We shall be entitled to the applicable statutory claims in the event of delayed delivery.

(6) Irrespective of Section 5, we shall be entitled to demand from the supplier lump-sum compensation for damage resulting from delay amounting to 1% of the total order value of the delivery (delivery value) for each full week of the delay, starting from the time of the delay, however no more than 10% of the delivery value. The supplier has the right to furnish proof of the fact that no or only lesser damage has actually occurred as a result of the delay.

(7) Part deliveries are generally impermissible, unless we have expressly agreed to these or they are reasonable for us.

§ 6 Force majeure, cancellation

(1) Force majeure, industrial action, stoppages for which we are not responsible, unrest, official action and other unavoidable events shall entitle us – notwithstanding our other rights – to withdraw fully or partly from the contract with the supplier, insofar as these are not of an inconsiderable duration or lead to a considerable reduction in our requirements.

§ 7 Prices, payment

(1) The price stated in the order is binding, insofar as no other written agreement was made afterwards.

(2) Insofar as no special agreement has been made, the invoice shall be paid either within 14 days with a deduction of 3% discount, or within 30 days net as of the due date of the demand for payment and receipt of the invoice, as well as provision of the service in return. Payment will be made subject to checking of the invoice.

(3) If delivery deadlines and periods have been agreed, the time allowed for payment in the case of our acceptance of premature deliveries will not be calculated on the basis of the date of receipt of the goods, but rather on the basis of receipt of the invoice and the agreed delivery deadline.

§ 8 Assignment

Without our prior written consent, which is not to be unreasonably refused, the supplier shall not be entitled to assign his claims against us. Consent is deemed to have been given in the event of extended reservation of proprietary rights. If, contrary to the provisions of Sentence 1, the supplier assigns claims against us to a third party without our consent, such assignment shall nevertheless be effective. In such cases we are however entitled to make payment to the supplier or the third party at our own discretion with discharging effect.

§ 9 Set-off, right of retention

Subject to the statutory requirements we are in any case entitled to exercise set-off against counter-claims due to us, or to exercise our right of retention.

§ 10 Warranty claims and recourse

(1) The statutory provisions relating to quality defects and flaws in title shall apply, unless otherwise stipulated in the following.

(2) Our acceptance of goods and services (also referred to in the following as: object of the contract) shall be subject to inspection for freedom from faults, including completeness. Insofar as, and as soon as practicable in the ordinary course of business, we shall inspect the object of the contract and notify the supplier immediately in writing of any shortcomings discovered. In this respect, the supplier waives the right to raise an objection on the grounds of late notification of defects.

(3) As a basic principle, we have the right to choose the nature of the remedial action (rectification of the fault or delivery of a faultless item). The supplier has the right to refuse the type of remedial action chosen by us, subject to the requirements of § 439 Paragraph 3 BGB.

(4) Insofar as the supplier does not take remedial action immediately following our request, we shall be entitled, in urgent cases, where prior notification of the supplier is no longer possible, in particular to ward off acute dangers or to avoid greater damage, to rectify defects ourselves at our standard rates of remuneration, or to have them rectified by third parties, at the expense of the supplier. The statutory claims in accordance with § 437 No. 2 and No. 3 BGB are not affected by this.

(5) The claims to which we are entitled in the event of defects shall become statute-barred in two years, unless a longer period of limitation is prescribed by law. The period of limitation for claims relating to quality defects shall commence on delivery of the object of the contract (passing of risk).

(6) In the case of flaws in title concerning the object of the contract, the supplier shall indemnify us against all third-party claims.

(7) With regard to delivered parts which have been put in order or repaired during the period of limitation of our warranty claims, the period of limitation will commence again from the time at which the supplier has fully satisfied our claims to remedial action, if and to the extent that he was acting in fulfilment of a legal obligation when doing so.

(8) Any expenses incurred by us as a result of deficient delivery of the object of the contract, in particular transportation costs, travelling expenses, labour and material costs, are to be borne by the supplier.

(9) Insofar as third-party claims are lodged against us on account of faults in the goods or services obtained from the supplier, we shall be entitled to recourse against the supplier. In such cases as well, the supplier is obliged to compensate us for the expenses arising due to the faults, in particular transportation costs, travelling expenses, labour and material costs.

§ 11 Product liability

(1) Should claims be lodged against us as manufacturer, for example by reason of the statutory regulations concerning tortious acts or product liability, the supplier shall be obliged to indemnify us against such claims, if and to the extent that the damage was caused by a fault in the object of the contract delivered by the supplier. In cases of liability based on proof of fault, this shall however only apply if, and to the extent that, the fault lies with the supplier. Insofar as the cause of the damage is within the area of responsibility of the supplier, the supplier accordingly bears the burden of proof.

(2) In the above cases, the supplier must indemnify us against all costs, including expenses for any necessary recall campaigns or the costs of any necessary prosecution, to an appropriate amount. Other than that, the statutory provisions shall apply.

§ 12 Industrial property rights

(1) It is the legal obligation of the supplier to ensure that neither the goods and services provided by him, nor the delivery of these to a third party, their further processing or their use by us, infringe any third-party industrial property rights, in particular patents, utility models and designs, trademarks or licences.

(2) The supplier shall indemnify us against third-party claims arising from any infringement of industrial property rights. Furthermore, the supplier shall assume all costs incurred by us as a result of third parties asserting claims against us for the infringement of such rights and the costs of our defence against such claims.

(3) Should any third-party industrial property rights represent an obstacle, the supplier must, at his own expense, obtain the consent or approval of the proprietor, effective for us as well, for delivery to a third party, further processing and use.

§ 13 Provision of parts, tools, retention of title

(1) Parts and materials provided by us to the supplier shall remain our property. These must only be used for the intended purpose. Any processing or transformation performed by the supplier will be done on our behalf. We will acquire co-ownership of any products manufactured using our parts and materials based on the proportion of the value of the items provided to the value of the product as a whole; these products will be accordingly held in safekeeping for us by the supplier.

(2) If parts and materials provided by us are culpably damaged or destroyed in the area of responsibility of the supplier, the liability of the supplier shall also extend to repair or replacement of the parts and materials provided.

(3) We retain ownership of tools provided or paid for by us; this also applies with respect to models, patterns, drawings, calculations, moulds, dies, templates and other production materials and production aids which we make available to the supplier or pay for. The supplier is obliged to use the tools as well as other production materials and production aids solely for the fulfilment of contracts concluded with us. The liability clause in accordance with Paragraph 2 above shall apply accordingly in the cases contained in this Paragraph 3.

§ 14 Secrecy, return of items

(1) Unless it is publicly known, has been legally obtained from third parties or independently acquired by third parties (confidential information), any business or technical information made accessible by us, in whatever form (and irrespective of the data carrier on which the information is contained), is to be kept strictly secret and used solely for the purposes of the contract concluded with the supplier. In particular, the confidential information includes technical data, documentation, models, patterns, drawings and tem-

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plates produced by us, information on products and product developments, research and development projects.

(2) If applicable, the supplier must bind any subcontractors to secrecy in accordance with Paragraph 1 above. Suppliers are only permitted to disclose confidential information to subcontractors if and to the extent that we have given our prior approval in writing.

(3) Whenever requested to do so by us, however at the latest on termination of the contract with the supplier, all information originating from us (including any copies or records made in any form whatsoever) and any loaned items are to be returned to us immediately and in full or destroyed, insofar as the supplier no longer requires these to fulfil his contractual performance obligations. We reserve all rights to such confidential information, including copyrights and the right to file applications for industrial property rights such as patents, utility models etc.

(4) Products made on the basis of documentation, drawings, models and patterns produced by us, or on the basis of our confidential information, or using our tools or replicated tools, are not to be used by the supplier himself and neither offered nor supplied to third parties by the supplier.

§ 15 Place of performance, legal venue, applicable law

(1) The place of performance is the place to which the goods are to be delivered in accordance with the contract.

(2) The legal venue for all disputes arising between us and the supplier from and in connection with contracts based on these terms and conditions of purchase will be the courts with jurisdiction over our headquarters in Nürtingen. We are further entitled to take legal action against the supplier at any other admissible legal venue of our choice.

(3) The contractual relationships between the parties are exclusively subject to German law, excluding the principles of conflict of laws and the United Nations

Convention on Contracts for the International Sale of Goods (UN Sale of Goods Act).

§ 16 Data protection

In accordance with the provisions of the German Federal Data Protection Act, we give notification of the fact that we employ an electronic data processing system for accountancy purposes and that, in this context, we gather, process and use the data received by reason of the business relationship with the supplier in an automated process to the extent required in each case for the establishment, organisation or alteration of the contractual relationship.

§ 17 Concluding provisions

Should any provision of these terms and conditions be or become invalid, this shall not affect the validity of the other terms and conditions and of any other agreements made with the supplier.

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