

# General Terms of Purchasing of IC Industrie Company - Elektro Automatisierung und Antriebstechnik GmbH

## § 1 General provisions – scope

1.1 The exclusive basis for all of our orders shall be the following terms. These terms also apply to all present and future business relationships, even if they are not expressly agreed upon again.

1.2 Contractors in the definition of these General Terms and Conditions are businesses. Businesses for the purposes of these General Terms and Conditions are natural persons or legal entities, or registered partnerships with legal capacity, with whom a business relationship is established and who act in exercise of a commercial or self-employed profession.

1.3 Exclusively these General Terms of Purchasing (GTP) shall be the basis for all orders of IC Industrie Company - Elektro Automatisierung und Antriebstechnik GmbH (IC-e) and its affiliates, unless the latter, hereinafter referred to as IC-e for short, invoke their own general terms of purchasing (GTP). Provisions in deviation thereof, in particular general terms and conditions of contractual partners, shall apply only if their applicability has been expressly acknowledged by IC-e in writing prior to the signing of the contract. IC-e is not obligated to object to contract forms or general terms and conditions of contractual partners, notably also not if such general terms and conditions name the applicability of the same as an explicit condition for the conclusion of the transactions. IC-e declares its intent to contract exclusively on the basis of these GTP. These GTP shall apply to both the present transaction as well as to all future business.

## § 2 Conclusion of the contract

2.1 The Contractor shall confirm orders at the latest one week after their receipt, unless IC-e requests otherwise. Belated confirmation or any confirmation differing from our order shall be deemed a new offer and require our explicit written acceptance.

2.2 The order number or name of the requisitioner shall be stated indicated in all correspondence. IC-e shall not be held accountable for any delays resulting from the failure to comply with this requirement.

2.3 If such written acceptance is not present and if the Contractor performs the delivery or other service nonetheless, IC-e shall accept them only on the conditions of the order placed by IC-e.

2.4 All contracts as well as their changes and amendments require the written form. Verbal side agreements shall be effective only if they are confirmed in writing by IC-e. This also applies to the clause of the written form itself.

## § 3 Prices and terms of payment

3.1 The delivery shall be made based on previously agreed fixed prices, understood plus the statutory value added tax in the currently applicable amount. This shall also apply to contracts with delivery deadlines of more than four months.

3.2 Price increases shall be permissible only if written agreements on the price have been made between the Parties.

3.3 If no prices are determined in the order, a confirmation of the price by IC-e will be required before the execution of the order.

3.4 The Contractor declares its willingness to execute the order on the conditions that have been granted to affiliates of IC-e. These conditions include, in particular, rebates, sales bonuses and discounts.

## § 4 Transfer of risk

The ordered products shall be transported at the Contractor's risk. The risk of accidental destruction or accidental deterioration shall be borne by the Contractor up until acceptance. Deviating agreements require the written confirmation by IC-e.

## § 5 Delivery

5.1 Unless agreed otherwise in writing, all deliveries shall be shipped with freight and packaging paid to the place of destination or use named by IC-e. Shipment shall be notified to IC-e so that IC-e is informed of the piece numbers, dimensions and weights before arrival of the products. This shall also apply to any special regulations for the handling of the products, in particular unloading, transport and storage in our operational area.

5.2 If the assumption of costs by IC-e is expressly agreed, IC-e shall determine the carrier. The good shall be declared in the bill of lading in such a way that the lowest permissible freight rate will be calculated for the shipment. For the execution of the transport, the Contractor shall notify IC-e of the readiness of the products for shipment. In that case, IC-e can conclude a transport insurance policy and bear the costs incurred for this purpose. To this end, IC-e is deemed a customer who is exempted from the forwarding and cartage insurance. No further insurance costs will be assumed by IC-e.

5.3 The packaging, insofar as the agreed price is not understood including packaging, shall be calculated at the cost price – without deposits. IC-e reserves the right to return bulky packaging material, in particular packing drums, barrels, boxes, etc. after emptying and free from any transport damages or other wear and tear, to the Contractor with freight paid and against corresponding credit. Deviating handling from the regulations under the German Packaging Ordinance (Verpackungsverordnung, "VerpackV") in its currently valid version requires our prior written consent.

5.4 The Contractor undertakes to comply with the legal regulations within the scope of the delivery and transport of hazardous substances in the definition of the Law on the Transport of Hazardous Cargo and according to any ordinances decreed on this law, in the currently valid version.

5.5 Additional deliveries shall be accepted only if this has been confirmed in writing by IC-e.

5.6 All documents required for the acceptance, operation, servicing and repairs, in particular test reports, factory certifications, drawings, plans operating instructions and repair manuals, shall be included in the delivery by the Contractor in a reproducible form and free of charge.

5.7 Our incoming products acceptance department is opened from Mon. to Fri. 7:00 a.m. to 4:00 p.m. Deliveries outside of these hours can be accepted only after prior written confirmation. IC-e will be in default of acceptance for failed deliveries outside of the aforementioned hours, if the capacity for acceptance outside of these hours has been assured in writing.

## § 6 Delivery period

6.1 Absent any explicit objection by the Contractor, the mandated delivery dates shall apply as agreed, and the delivery dates and periods shall be binding in this case and begin on the date of our order. Decisive for the adherence to the delivery date or delivery period shall be the products receipt at the place of receipt/use specified by IC-e or the timeliness of the successful acceptance.

6.2 Occurring delays shall be notified in writing to IC-e as soon as they are recognised and still before the expiration of the delivery period, with a statement of reasons and stating the expected duration of the delay. Any changes in the dispositions relating to the order, which become required due to the belated delivery, shall be notified by IC-e without delay and be closely followed by the Contractor.

6.3 The Contractor is obligated to compensate all direct and indirect damages due the delay, unless the delays are outside of its responsibility.

6.4 In case of a delay by the Contractor, IC-e shall be entitled to the statutory claims, in particular to claims of damages for non-performance after idle expiration of an appropriate grace. IC-e shall be entitled to a lump-sum damage compensation for delay in the amount of 0.5% for each complete calendar day of damage caused by delay, and at most up to 10% of the value of the delivery or service. The aforementioned rights shall not be precluded by originally delayed deliveries/services of IC-e being accepted unconditionally. IC-e remains the right to assert further claims. However, the Contractor shall have the right to prove that no or substantially less damage has been caused in consequence of the delay. The lump-sum claim asserted by IC-e shall then reduce accordingly.

6.5 A delivery made early without our agreement shall not affect the payment dates that are based on the agreed dates of performance.

## § 7 Acceptance

The acceptance by IC-e shall take place in the ordinary course of business, directly on receipt of the delivery or service, insofar as the performance was in accordance with the contract.

## **§ 8 Delivery slip**

- 8.1 Two copies of the delivery slip, stating all identifications mandated in our order, in particular the order number, parts no., batch no., and item number, shall be enclosed with each shipment. Partial and remaining deliveries shall be marked separately.
- 8.2 In order to be able to determine the content of a shipment without opening it, the clearly marked delivery slip shall be inserted under either the sticker or the packing paper.

## **§ 9 Law of obligations, warranty and notice of defects**

- 9.1 The Contractor guarantees and assures, respectively, that all items delivered by it or all services performed by it conform to the latest state of technology, the relevant national and international legal regulations, in particular the prohibition of child labour and the regulations and guidelines of authorities, and professional and trade associations.
- 9.2 If deviations from these regulations are required in the specific case, the Contractor must obtain our written consent for this. Its warranty obligation shall not be affected by this consent.
- 9.3 The specifications and company-internal standards defined in the agreement shall apply as guaranteed data or assured properties and condition of the object of delivery or service.
- 9.4 The Contractor shall be liable for the delivered items or performed services being free from defects reducing their value or suitability for use and for the assured or guaranteed properties and conditions being present.
- 9.5 The warranty period shall be twelve months, beginning on the date of the acceptance of the delivered items or performed services by IC-e or by the third party named by IC-e to the place of receipt or use determined by IC-e.
- 9.6 As soon as they are discovered in the ordinary course of business, defects of the delivery/service shall be notified by IC-e in writing without delay, whereas at the latest within four weeks delivery to IC-e or to the recipient named by IC-e. So-called hidden defects, which are discovered only at a later point, shall be notified by IC-e at the latest within two weeks from their discovery.
- 9.7 The Contractor shall carry out the required reworking promptly and free of charge on request by IC-e if defects have been reported on time, or if assured or guaranteed properties and condition are missing. If the reworking fails, IC-e shall retain the statutory warranty claims.
- 9.8 In urgent cases or if the Contractor is in delay with the fulfilment of the warranty obligations incumbent on it, IC-e shall also be entitled to correct defects on its own at the Contractor's cost or to have third parties correct them or procure replacements. If IC-e decides for one of these options, it shall inform the Contractor of it. IC-e shall decide at its dutiful discretion whether an urgent case is given.
- 9.9 If claims are brought against IC-e based on domestic or foreign products liability regulations for a violation of official safety regulations or for the defectiveness of a product, which has been caused by a product or service of the Contractor, IC-e shall have the right to demand compensation for this damage from the Contractor, to the extent that the products delivered by it have contributed to the causation of the damage. The supplier shall conduct a quality assurance process, which is suitable in kind and scope and conforms to the latest state of the art, and it shall prove this quality assurance process to IC-e in the event of product liability damages.

## **§ 10 Proof of origin, export restrictions**

- 10.1 Any proof of origin requested by IC-e (e.g. supplier declarations, product movement restrictions in the definition of the EU EFTA rules of origin) shall be provided promptly by the supplier, duly signed and complete with all required information.
- 10.2 The Contractor shall inform IC-e when an object of delivery is fully or partly subject to export restrictions pursuant to German or any other foreign trade law (e.g. of the USA).

## **§ 11 Payment**

- 11.1 A separate invoice in two official copies shall be submitted on the day of shipment for each order and the contents of the invoice must be identical to the contents of the delivery slip and the shipment notification.
- 11.2 Unless noted otherwise in the order, payments shall be made less 3% discount within 14 days or in the net amount within 60 days, or at a later payment target date granted by the Contractor. The payment period shall begin at the earliest on receipt of the correct invoice, whereas not before the receipt and technical acceptance of the ordered products or acceptance of the service. The date of the received stamp shall be deemed the date of invoice receipt.
- 11.3 We will not accept interest charged as of the due date or the restriction of the right to refuse performance or the right of withholding, and the right of set-off. The settlement of the invoice total shall affect neither our right to notify of defects nor our warranty or guarantee claims against the Contractor.
- 11.4 Invoices that do not comply with our requirements, in particular if order numbers are missing or if the EURO requirements are not met, will be directly returned by IC-e to the Contractor. In that case, the discount period shall not restart before the receipt of the corrected invoice.

## **§ 12 Force majeure**

Events of force majeure, strike and lockout shall exempt the contractual partners from their performance obligations for the duration of the disruption and to the extent of its effect. The contractual partners are obligated to provide the necessary information without delay, within reasonable limits, and adjust their duties to the changed situation in good faith.

## **§ 13 Third party industrial property rights**

- 13.1 The Contractor assures that the manufacturing, processing, use or resale of the offered and delivered products or other services do not infringe on any domestic or foreign industrial property rights or copyrights of third parties.
- 13.2 The Contractor is obligated to indemnify IC-e or our buyers from damage compensation claims of third parties arising from such legal relationships and to enter into any lawsuit pursued for this reason by IC-e or our buyers at its own costs.
- 13.3 IC-e is entitled to acquire the right of use (license) from the rights holder at the Contractor's cost. The Contractor shall assume any licensing costs within 14 days upon written request by IC-e.

## **§ 14 Own party industrial property rights**

The Contractor acknowledges our claims to the rights on trademarks, names and packaging designs used for the contractual products and undertakes not to derive any rights for the future use of these trademarks, names and packaging designs, and it shall not permit these or similar ones being used, except for the contractual products for delivery to IC-e itself. This obligation of the Contractor shall also remain in effect beyond the termination of the contract without limitation in time, whereas at least until expiration of the 10th year after the termination of the contract.

## **§ 15 Documents and confidentiality**

- 15.1 All export documents, models, samples, drawings, leaflets, tools, etc., which IC-e makes available to the Contractor, shall remain the property of IC-e and be stored carefully for the time of their provision at the supplier's cost, and be protected against access by unauthorised third parties. IC-e can demand that they be returned at any time.
- 15.2 All export documents, models, samples, drawings, leaflets, tools, etc. shall be treated as confidential and may be used solely for the completion of our orders. The Contractor expressly undertakes not to reproduce them and to protect them against access by unauthorised third parties.
- 15.3 All parts manufactured according to our information, drawings, models, etc. may be provided finally or for inspection exclusively to IC-e and never to third parties.

15.4 Also all other information, information made available to the supplier in connection with placing and executing the order, which relates to piece numbers, process, etc. and other knowledge obtained about any and all of our operative processes shall be treated as confidential by the supplier and remain secret even after the termination of the business relationships without limitation in time, whereas at least until expiration of the 10th year after the termination of the business relationship.

#### **§ 16 Assignment**

The Contractor shall not be entitled without the client's prior written agreement to assign claims against IC-e or authorise third parties to collect them. We shall grant agreement to the assignment according to the principle of good faith. Our agreement shall be deemed withheld in case the Contractor has granted an extended reservation of title in the ordinary course of business to its supplier.

#### **§ 17 Set-off**

IC-e has the right of set-off against any due claims, which undisputedly exist at a company affiliated with IC-e or IC-e, against the Contractor.

#### **§ 18 Place of fulfilment and place of jurisdiction**

18.1 Unless stated otherwise in the order and order confirmation, the place of fulfilment for the delivery and other service of the Contractor shall be the address of destination determined by IC-e in dealings with merchants, legal entities of public law or public-law investment funds. The place of fulfilment for our payment obligation is the place of the registered office of our company.

18.2 The place of jurisdiction for all disputes is the place of IC-e's registered office, if the client is a merchant, legal entity of public law or a public-law investment fund. However, we reserve the right to sue the Contractor at its general place of jurisdiction.

18.3 Unless agreed otherwise, exclusively German law applies without the reference standards of private international law and to the exclusion of the UN Convention on Contracts for the International Sale of Goods.

#### **§ 19 Data protection and final provisions**

19.1 Personal data, which arise in connection with the contractual relationship, will be stored for the purpose of data processing in observation of the GDPR.

19.2 Changes or amendments of contracts concluded with IC-e including the GTP require the written form for validity. This also applies to the waiver of the requirement of the written form.

19.3 Any invalidity of a part of the foregoing terms (including this clause) shall have no effect on the validity of the remaining terms. The statutory provisions shall apply instead of the terms not having become a part of the contract or in replacement of any invalid provisions.

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