

## Standard Purchasing Terms & Conditions

of CTS GmbH,  
Lotzenäcker 21,  
72379 Hechingen

Revision date: 01 January 2015

### § 1

#### Applicable Scope

- (1) The following Standard Purchasing Terms & Conditions (hereinafter "**T&Cs**") exclusively apply to all proposals, purchase orders, products and services from suppliers of goods or services (hereinafter "**Supplier**").
- (2) We preemptively reject any of Supplier's differently worded business terms and conditions that contradict the following T&Cs, unless we have agreed to the former in writing. Supplier's contradictory business terms and conditions shall not become a contractual component even without our expressly stated rejection, including in the event of an unconditional acceptance of the product or service or in the event of payment.
- (3) The following T&Cs only apply to companies as defined by § 14 of the German Civil Code [Bürgerliches Gesetzbuch - BGB], to legal entities under public law, or to public entities with special assets.
- (4) In the event of a regularly established business relationship between us and the Supplier, the following T&Cs also apply to future purchase orders without repeated express reference.
- (5) Changes or amendments to these T&Cs are only binding if we have confirmed these in writing.

### § 2

#### Contract Conclusion and Contract Changes

- (1) Supplier's preparation of proposals and cost estimates is free of charge and non-binding for us.
- (2) Proposals to us must include all relevant details needed for a technical and price review.
- (3) Supply agreements (purchase orders and acceptance) and delivery releases, including changes and amendments to these must be made in writing; verbal and telephone purchase orders require our written confirmation to be legally valid; this also applies to retroactive changes of already placed purchase orders.

- (4) A confirmation from Supplier that differs from our purchase order represents a new proposal that we must reapprove in writing.
- (5) If the Supplier fails to confirm the purchase order or the delivery release in writing within 5 business days after having been received by Supplier, we are entitled to recall the purchase order at no costs charged to us for this reason.
- (6) Within reason, we can demand that Supplier make changes to the design and configuration of the contractual deliverables. In this case, the resulting impact must be appropriately resolved in a mutually acceptable manner, specifically with respect to cost increases and cost decreases.
- (7) We retain the title and copyrights to figures, drawings, calculations and ancillary documents; these must not be made available to others without our express written consent. These must only be used for manufacturing purposes based on our purchase order; after processing, they must be returned to us without separate request. They must be kept confidential from others; the provision in § 10 applies accordingly.

### § 3

#### **Transport, Packaging, Risk, Retention of Title**

- (1) Goods are transported at Supplier's expense and risk, free at the agreed place of delivery. If unfree delivery is agreed as an exception, we will only accept the lowest cost freight charges, unless we have specified a certain shipping method.
- (2) Delivery must be rendered by the freight forwarder specified by us if "free delivery" was not agreed as an exception.
- (3) Irrespective of cost bearing provisions, risk is transferred to us only after the goods or services have been delivered and accepted at the agreed delivery location.
- (4) Shipping notices, bills of lading, invoices, and miscellaneous correspondence between us and the Supplier must each indicate our purchase order number, our article number, and the Supplier's article number, as well as the Supplier's material lot numbers. If the Supplier fails to supply these, the resulting processing delays are not attributable to us.
- (5) The title to the goods is transferred to us with the transfer of risk. The title to the goods is transferred unconditionally and without regard for the payment of the corresponding remuneration. Supplier's retention of title, in particular expanded and forwarded title, and retention of title extended for contract processing, is not acknowledged.

## § 4

### Prices and Payment Terms

- (1) Agreed-to prices are fixed prices including costs for transport, packaging, customs processing, and miscellaneous incidental expenses. This excludes Supplier's retroactive price increases regardless of reason, unless we would have agreed to such a price increase in writing. The statutory VAT is included in the price.
- (2) Supplier invoices that deviate from the product or service are only regarded as having been received by us from the time these are corrected in a properly formatted invoice.
- (3) We can only process invoices when these indicate the purchase order number issued pursuant to the specifications in the purchase order; the Supplier is responsible for all consequences resulting from non-compliance with this requirement, unless Supplier demonstrates that it is not accountable for said consequences.
- (4) Our payment does not constitute recognition of the product or service as contractually compliant.
- (5) The Supplier agrees to payment after the goods have been received and accepts payments of any method at our discretion, in particular payment by means of electronic payment processing. Unless agreed to otherwise in writing, we will pay the purchase price minus a 3 % discount within 14 days from delivery and receipt of a properly formatted invoice, or full net within 60 days after invoice receipt.
- (6) We are entitled to offsetting and retention rights within the limits of the law.
- (7) If payment is rendered by cheque or bank transfer, the sole element to determine the legality of the payment shall be that the cheque or the transfer order has been received by the recipient or the bank by the payment deadline.

## § 5

### Delivery Time

- (1) Agreed to delivery times are binding. Default is triggered without warning. In the case of goods shipments, the determining element for compliance is the receipt of the goods at the delivery location, and our acceptance tests for cases involving delivery in conjunction with assembly and services.
- (2) When the agreed-to deadline is not met for reasons attributable to the Supplier, we are entitled at our discretion and notwithstanding further statutory regulations to withdraw from the contract after an appropriate grace period has expired, to obtain replacement from third parties, and/or to demand compensatory damages for non-fulfilment. We are entitled to receive compensation for all additional costs we incur in connection with past-due goods or services attributable to the Supplier. Acceptance of past-due goods or services does not constitute a waiver of compensation claims.

- (3) If the Supplier fails to meet the agreed to delivery deadline, we are also entitled to demand 0.5 %, but not to exceed 10 % of the purchase order value as a contractual penalty for each week of the delay. Forfeiture of the contractual penalty does not exclude the assertion of other damages while crediting the contractual penalty. If we accept the goods or services in spite of the delay, we can demand the contractual penalty without having reserved this right at the time of acceptance. The Supplier's right to provide proof of lower damages or proof that no damages were incurred remains intact.
- (4) We are required to accept over or under shipments as well as partial and early shipments only following an express agreement. If partial shipments were agreed, the still outstanding residual amount must be indicated with the partial shipment.
- (5) If the Supplier recognises the possibility of delivery delays that are inconsistent with meeting the binding delivery date, Supplier must immediately inform us in writing about this by indicating the reasons and the anticipated duration of the delay.
- (6) For operational reasons, we reserve the right to change the quantity of ordered shipments or to instruct the temporary suspension of scheduled shipments.
- (7) When a shipment is made earlier than agreed, we are entitled to reject the service or to return the goods to the Supplier at its expense and risk. If the goods are not returned, we agree to store the goods on our premises at the Supplier's expense and risk. The agreed-to delivery date is definitive for payment.

## **§ 6**

### **Warranty, Incoming Inspection, and Deficiencies**

- (1) The Supplier is immediately informed about deficient deliveries as soon as these are identified pursuant to the circumstances of a properly executed business process. In this regard, Supplier waives the objection of an expired deficiency notification deadline pursuant of § 377 German Commercial Code [Handelsgesetzbuch - HGB].
- (2) The Supplier warrants that the delivered products or services are free of defects, that these specifically have the contractually agreed to characteristics and quantity, that these comply with our specified requirements, and correspond to the recognised rules of technology at the time of shipment. We must agree to changes before the products and services are delivered.
- (3) If a defect is identified, the Supplier shall also absorb the costs for inspection and documenting the defect, irrespective of other applicable claims.
- (4) If the delivered goods are defective, the Supplier shall repair or replace these at our discretion.
- (5) In the event of replacement shipments, the defect warranty period starts over for the replaced part.

- (6) If the Supplier fails to comply promptly, but no later than after 7 business days, with the demand to correct defects or to provide replacement shipments, or is unable to render these, we are entitled to withdraw from the contract and/or to demand compensatory damages in place of the deliverable and to return the goods to the Supplier at its expense and risk.
- (7) In urgent cases, when the immediate need for correcting a defect is justified based on a special interest on our part, or there is a concern that a defect correction by the supplier could result in delays that would render the fulfillment of our obligations to contractual parties more difficult, or the defect correction by the Supplier would result in costs greater than the defect correction by us, we are entitled to perform the necessary defect correction or rework in-house or have the same performed by third parties in the required scope on the defective shipment or service at the Supplier's expense without first informing the Supplier about this (in-house disposition). In these cases, we are also entitled to obtain defect-free goods or services from third parties (replacement procurement). The Supplier shall bear the costs required for the in-house disposition or the replacement procurement.
- (8) We are entitled to return contractually non-compliant goods supplied to us at the Supplier's expense and risk.
- (9) If a defect is only discovered after processing or subsequent shipment of the goods supplied by Supplier, Supplier is required to bear all costs required to exchange or rework the defective goods, in particular costs for inspection, transport, travel, labour, and materials.
- (10) If the exchange of an entire series of supplied parts or our products into which the supplied parts are installed is necessary due to a series defect, for instance because a defect analysis is uneconomical or unreasonable in a specific case, the Supplier is required to also reimburse our costs regarding the portion of the series that does not have a technical defect.
- (11) The warranty period for asserting defect claims is 36 months from the date risk is transferred, unless the mandatory regulations in §§ 478, 479 German Civil Code apply. The warranty period is respectively extended by the same period if our customer requires us to honor a longer warranty period. If our customer requires us to honor longer warranty periods, the Supplier also agrees to accept these following our written notice.
- (12) If the Supplier is unable to pay or is insolvent, we are entitled to withhold an appropriate security, however no less than 10 % of the agreed-to price, until the warranty period for asserting claims has expired.
- (13) The Supplier assigns its warranty claims against its suppliers to us. We are entitled to disclose this assignment if the Supplier is insolvent. We are also entitled to withdraw from purchase orders in the delivered scope not yet fulfilled at this point in time.
- (14) If the supplied goods are incorporated into an end product that is sold to a consumer, we are entitled to assert compensatory damage claims against the Supplier as per §§ 478, 479 German Civil Code if the Consumer's customers assert claims.

- (15) The Supplier shall indemnify us against all third party claims based on a defect within the Supplier's delivered scope. The Supplier is required to accept all costs incurred in connection with a defect, including those for any required recalls.
- (16) Unless provided for otherwise in the aforementioned text, the Supplier's warranty is based on the statutory regulations.

## § 7

### **Product Liability and Liability Insurance Coverage**

- (1) If third parties seek remedies from us for compensatory damages on the basis of the German product liability act or on the basis of other regulations due to a product defect, the Supplier is required to indemnify us against claims for compensatory damages, including for damages due to required recalls, rework, dismantling and installation, if and to the extent the damages are based on a defect in the goods supplied by Supplier. If the cause for such damages is attributable to the Supplier, Supplier shall have any associated burden of proof. In these cases, the Supplier is also required to bear all costs and expenses, including the costs of any resulting legal remedies.
- (2) We and the Supplier shall mutually communicate with, and support each other during the legal defence.
- (3) For all goods supplied by Supplier, the Supplier is required to conclude a product liability insurance policy with an appropriate coverage sum (no less than EUR 1 million) for property damage and bodily injury and recall cost coverage with an appropriate coverage sum (no less than EUR 2 million), and to maintain these for at least 15 years beyond the shipment. The Supplier shall provide written proof of having concluded such insurance coverage when requested, and annually without request no later than 31 January of each year.

## § 8

### **Industrial Property Rights and Liability for Legal Deficiencies**

- (1) The Supplier warrants that the goods it supplies do not violate any domestic or foreign industrial property rights and are not encumbered by ancillary third party rights. Supplier also guarantees the unrestricted permission of the domestic and international copyright-based use and trade of the supplied goods.
- (2) If third parties seek remedies from us in connection with a breach of domestic or international industrial property rights for the supplied goods, the Supplier is required to indemnify us against all claims and must bear all costs incurred in connection with this.
- (3) Unless provided for otherwise in the aforementioned, the legal deficiency liability shall otherwise be governed by the statutory regulations, including when the case involves parts that Supplier obtained from third parties.

## § 9

### **Manufacturing Supplies, Customer-Provided Materials**

- (1) To the extent that we absorbed costs for manufacturing supplies and tooling, the title for these is assigned to us. Unless provided for otherwise, these remain on loan in the Supplier's custody until the purchase order is completed.
- (2) If we absorbed proportional manufacturing costs, the title is assigned to us proportionally unless we agreed to a payment offset between the proportional and full costs.
- (3) Customer-supplied materials and manufacturing supplies, drawings, models, samples, tooling, and the like remain our property and must be returned to us at no cost without request and at any time when instructed as soon as these are no longer needed to execute the purchase order. These must be permanently treated confidentially and must only be used to render the procured products and services. In particular, these must neither be used for other purposes nor reproduced or made available to third parties. The Supplier is liable for their destruction, loss, degradation, or damage to the extent this is attributable to Supplier.
- (4) Any supplied materials and manufacturing supplies must not be forwarded, sold, or pledged to third parties or used in a similar manner without our approval.

## § 10

### **Confidentiality**

- (1) The contractual parties agree that all information of which they become aware during the business relationship must be treated confidentially. They are specifically required to maintain confidentiality for all received drawings, engineering designs, calculations, samples, and similar documents and information. Without the express written approval of the respective other contractual party, the contents of documents and data must not be made availa-

ble to third parties or used for the Supplier's internal purposes. The respectively other contractual party is required to protect these against unauthorised access or use.

- (2) This does not apply if the relevant information is demonstrably publicly known, or becomes publicly known at no fault of the Supplier, was legally obtained by a third party, or was already in the Supplier's possession.
- (3) This confidentiality obligation also extends to all of Supplier's employees and sub-contractors. To the extent this has not already been implemented, the Supplier agrees to impose corresponding confidentiality obligations on this group of persons. The Supplier shall also make all appropriate arrangements to prevent third party access to the work results or to the information obtained by us.
- (4) Subject to the provisions in the following sentence 2, this confidentiality obligation also extends for a period of 5 years after the supply or business relationship has ended. The confidentiality obligation is open-ended to the extent that the confidential information represents a trade or operational secret. If a contract is not concluded, the confidentiality obligation also applies to documentation named under para. (1) and obtained during the contract negotiations.
- (5) When the supply and business relationship ends, any documentation obtained must be returned in proper condition to the respectively other contractual party without request.

## **§ 11**

### **References**

The Supplier may only use the business relationship with us as a reference following our prior written approval.



## § 12

### **Jurisdiction, Place of Fulfillment, and Applicable Law**

- (1) Our indicated ship-to address is the place of fulfillment for all of Supplier's products and services. Our registered office is the place of fulfillment if such a ship-to address is not provided and can also not be derived from the circumstances.
- (2) Our registered office is the exclusive jurisdiction if the Supplier is a merchant, a legal person under public law, or a public entity with special assets; however, we are also entitled to sue the Supplier at its court of residence.
- (3) All legal relationships between the parties are exclusively governed by German law subject to the exclusion of the UN Sales Convention (CISG) and international private law.

## § 13

### **Severability Clause**

If individual provisions in these Standard Purchasing Terms & Conditions are or become legally invalid, this does not affect the validity of the remaining provisions.