

## General Terms and Conditions of Purchase for Goods Deliveries

(applicable as of January 1, 2014)

of euromicron Group company (hereinafter referred to as the “customer”):

### 1. General – Scope

These Terms and Conditions of Purchase shall apply only to business transactions with entrepreneurs. The customer's orders for deliveries and other services (hereinafter referred to jointly as “services”) shall be performed solely on the basis of the following Terms and Conditions of Purchase. The customer does not acknowledge any terms and conditions of the supplier which conflict with or differ from these Terms and Conditions of Purchase, unless the customer has expressly agreed in writing that they are to apply. The customer's Terms and Conditions of Purchase shall also apply if the customer accepts the services without reservation despite being aware of terms and conditions of the supplier which conflict with or differ from these Terms and Conditions of Purchase. Within the scope of current business relations, the customer's Terms and Conditions of Purchase shall also apply to all future contracts with the supplier, without the customer being obliged to point out separately in each case that these Terms and Conditions of Purchase apply.

### 2. Written form – Orders

**2.1** All agreements concluded between the customer and supplier for the purpose of fulfilling the contract shall be laid down in writing in said contract.

**2.2** The supplier can accept an order from the customer only within a period of two weeks of its receipt.

### 3. Quality assurance

The supplier shall conduct quality assurance in a suitable manner and scope and in accordance with the state of the art and shall furnish the customer with proof thereof upon request. At the request of the customer, the supplier will conclude a quality assurance agreement to this effect with the customer, namely on the basis of the respectively applicable version of EN ISO 9001 or any subsequent or supplementary standards.

### 4. Delivery – Shipment – Packaging – Obligations under the German Electrical and Electronic Equipment Act (ElektroG) – Compliance with REACH and duties to provide information

**4.1** Unless the customer has otherwise agreed with the supplier, deliveries shall be made DDP (Incoterms 2010) to the place of delivery stated in the customer's order or, if a place of delivery has not been specified in the order, DDP to the registered offices of the customer's company.

**4.2** Partial services and partial deliveries shall be permitted only with the express, prior written consent of the customer. Acceptance of partial services or late services shall not affect the customer's contractual and statutory rights and claims.

**4.3** The supplier shall be obliged to specify the customer's order number and the contents of the consignment clearly on all shipping documents and delivery notes. Any additional requirements specified in the order / technical documents must be observed.

**4.4** The supplier shall be obliged to package and ship the goods properly. The supplier is responsible for choosing a suitable carrier.

**4.5** Unless otherwise agreed, the supplier shall be obliged to take back packaging material free of charge and to collect and dispose of it properly. Suitable proof that it has been disposed of in compliance with the law shall be furnished upon request. If the supply does not fulfil this obligation, the customer shall be authorized to have the packaging material collected and disposed of at the supplier's expense.

**4.6** The customer shall be informed that the goods are ready for shipment at the customer's request. The supplier shall inform the customer immediately of any damage in transit.

**4.7** The supplier undertakes to comply with the German Act Governing the Sale, Return and Environmentally Sound Disposal of Electrical and Electronic Equipment (ElektroG) and to discharge the obligations resulting from it for the customer and – if said obligations cannot be transferred – to help the customer fulfil them. In this regard, the supplier undertakes in particular to affix the manufacturer's label in accordance with Section 7 Sentence 1 ElektroG to the subject matter of the contract free of charge for the customer and in compliance with the customer's stipulations and to label the respective subject matter of the contract with the symbol in accordance with Section 7 Sentence 2 ElektroG in conjunction with Annex 2 of the ElektroG in compliance with the customer's stipulations.

**4.8** The supplier warrants that its deliveries meet all the requirements of the Regulation on the Registration, Evaluation, Authorization and Restriction of Chemicals (Regulation (EC) No. 1907/2006, “REACH Regulation”). The substances contained in the products supplied by the supplier (and in their packaging) shall, where required by the provisions of the REACH Regulation, be pre-registered or registered after expiry of the transitional periods, unless the substance is exempted from registration. The supplier shall provide safety data sheets in accordance with the REACH Regulation and the information required pursuant to Article 32 of the REACH Regulation. The supplier shall also provide the customer with the information in accordance with Article 33 of the REACH Regulation upon request. If customers, competitors or public authorities assert claims against the customer due to breach of the provisions of the REACH Regulation and said breach is attributable to a delivery of the supplier, the customer shall be authorized to demand indemnification against said claims or reimbursement for the damage caused as a result of non-compliance with REACH, unless the supplier is not liable in such cases because it is not to blame; the respectively applicable version of the REACH Regulation shall apply.

**4.9** At the request of the customer, certificates of origin, movement certificates, preferential certificates of origin and documentary evidence of origin shall be created by the supplier in the required form and at the supplier's expense.

**4.10** When an order is placed, the supplier shall be obliged to inform the customer if goods from its scope of delivery require export permission in accordance with the respectively applicable version of the German Foreign Trade and Payments Act (AWG), German Foreign Trade and Payments Ordinance (AWV) or EC Dual-Use Regulation or if they are on the List of Dual-Use Items. The supplier shall inform the customer immediately if goods did not require export permission or were not on the List of Dual-Use Items when the order was placed, but in the meantime require approval or have been included in the List of Dual-Use Items or if the supplier is aware of other impediments or restrictions to their export. If customers, competitors or public authorities assert claims against the customer due to breach of the provisions of the German Foreign Trade and Payments Act (AWG), German Foreign Trade and Payments Ordinance (AWV) or EC Dual-Use Regulation and said breach is attributable to a delivery of the supplier, the customer shall be authorized to demand indemnification against said claims or reimbursement for

the damage caused as a result of non-compliance with the German Foreign Trade and Payments Act (AWG), German Foreign Trade and Payments Ordinance (AWV) or EC Dual-Use Regulation, unless the supplier is not liable in such cases because it is not to blame.

**4.11** The risk of accidental loss and accidental impairment and ownership shall pass to the customer in accordance with the statutory provisions, unless otherwise agreed. The supplier shall have receipt of the delivery acknowledged in writing by an authorized person of the customer.

**4.12** All pertinent EU Regulations and standards for the product in question shall continue to apply.

## **5. Delivery deadlines – Delay**

**5.1** The time of performance or delivery time specified in the order shall be binding. The time at which the goods are received by the customer shall determine whether binding delivery deadlines have been met. The supplier shall be obliged to notify the customer immediately in writing if circumstances arise, or become apparent to the supplier, which result in the delivery time or time of performance not being able to be adhered to. Neither said notification nor the failure of the customer to respond to it shall constitute acknowledgment of a new delivery date or affect the customer's contractual and statutory rights and claims.

**5.2** If delivery times or times of performance are not adhered to, the customer shall be entitled to the statutory claims. In particular, the customer shall be entitled to demand damages and rescission of the contract after it has set a reasonable period of grace and the latter has expired without remedy. If the customer demands damages, the supplier shall have the right to prove to the customer that the supplier is not to blame for the breach of duty. Acceptance of the late delivery or service shall not constitute any waiver of claims for compensation.

**5.3** If the supplier is in delay, the customer shall be authorized to demand a contract penalty of 0.5% of the order value of the delivery which the supplier is in delay in providing for each full week after the delay begins, but at most 5% of the total order value. The customer shall be authorized to claim a contract penalty alongside performance; the customer shall declare to the supplier its intention to claim a contract penalty within 10 working days of receipt of the late delivery. In addition to a contract penalty, the customer can demand reimbursement for the damage caused by the delay. Any incurred contract penalty shall be offset in this case. Further claims and rights from delay shall be unaffected.

## **6. Prices – Invoicing – Payment**

**6.1** The prices are fixed prices and are not subject to subsequent change. Unless otherwise agreed, the prices are free domicile and include the cost of shipment and packaging and disposal of the latter. The agreed prices are net prices. If applicable, statutory value-added tax at the rate prescribed by law shall be payable on top of them.

**6.2** The invoice shall be sent in duplicate to the invoice address specified in the order. The invoice shall not be enclosed with the consignments.

**6.3** Unless otherwise agreed, the invoice shall be settled within 20 days with a cash discount of 3%, within 30 days with a cash discount of 2% or within 60 days without deduction. Said period of time shall commence from when both the invoice and the goods have been received by the customer or the services have been performed. Payments are made subject to reservation and do not constitute acceptance or acknowledgment that a service complies with the contract.

## **7. Obligations to inspect goods and lodge complaints**

**7.1** The supplier shall deliver goods that have undergone a complete inspection. After receiving the deliveries, the customer shall merely examine whether they match the ordered quantity and ordered type and whether there is externally visible damage in transit. The customer shall also undertake inspections on the basis of random sampling. In this regard, the supplier shall waive any further statutory requirements for incoming goods inspections.

**7.2** If the customer discovers defects as part of its inspection of random samples, the customer shall be authorized to reject the entire delivery or, at its discretion, inspect the entire delivery and charge the resultant costs of this inspection to the supplier.

**7.3** Defects shall be reported within 5 business days. In the case of apparent defects, this period of time shall commence upon handover of the goods and, in the case of defects that are not apparent, when the defect is discovered.

## **8. Features – Quality**

**8.1** All deliveries and services shall comply with the state of the art, the pertinent statutory regulations and provisions and the guidelines of public authorities, mutual indemnity associations and professional associations. In particular, accident prevention regulations, other work safety regulations and the generally recognized rules relating to technical safety requirements and occupational health shall also be observed. In addition, the goods or services shall be provided in observance of due diligence customary in the trade, in particular as regards the intended use or further processing of the products.

**8.2** In the case of services based on drawings, plans or other specifications or order documents that have characteristic features, the specifications or characteristic features contained in them must be observed precisely. They shall have precedence over industry standards, which also apply.

**8.3** The supplier may make changes in the execution or quality of the services to be provided from the agreements concluded or from preceding services only if the customer has given its prior written consent to the change in question.

**8.4** In cases of doubt, the supplier shall inquire as to the product's intended use or nature of the future processing.

**8.5** Partial acceptance or processing of the supplied products or services shall not constitute acceptance of them without complaint. All claims for defects shall still be effective despite partial utilization or processing of the supplied products or services.

## **9. Claims for defects**

**9.1** The customer shall be entitled to the statutory claims for defects in full. In the event of defects, the customer can in each case demand, at its discretion, rectification of the defect or delivery of an object that does not have defects. The supplier shall bear the expenses required to remedy defects, in particular transport, travel, labor and material costs.

**9.2** If (a) the customer has unsuccessfully set the supplier a reasonable period of grace to rectify the defect or deliver an object that does not have defects, (b) subsequent remedy fails, (c) is unreasonable, (d) is refused seriously and definitively by the supplier or (e) if there are special circumstances which, after weighing the interests of both parties, justify the further rights defined below being asserted, the customer shall be authorized to reduce the price to the ratio in which, at the time the contract was concluded, the value of the object in a state free of defects would have been relative to its actual value (reduction) or to

rescind the contract. In each case, additionally or alternatively, the customer shall be authorized to demand reimbursement of the damage caused by delivery of the defective products, unless the supplier is not to blame for the breach of duty.

**9.3** Claims for defects shall become statute-barred two years after the passage of risk, unless a longer period is provided for under the law or the customer has agreed a longer period of limitation with the supplier.

**9.4** In addition, the statutory regulations relating to the supply of defective products shall apply. In this regard, the customer is entitled to assert further claims due to the delivery of defective products.

#### **10. Product and producer's liability – Indemnification – Third-party liability insurance cover**

**10.1** The supplier shall be obliged to indemnify the customer against claims as part of liability on the part of producers and product liability if the defect that led to liability is attributable to a product supplied by the supplier and the supplier is not able to prove that the defect does not result from its production sphere or organization. The claims shall also cover the costs of any recall.

**10.2** The supplier shall also point out to the customer the risks of using its product in an unintended way.

**10.3** The supplier shall be obliged to take out third-party liability insurance to a reasonable amount to cover the above risks and to furnish proof of it at the customer's request. Any further claims to which the customer may be entitled shall remain unaffected.

#### **11. Rights of third parties**

**11.1** The supplier warrants that no third-party rights are infringed in connection with its services.

**11.2** If claims are asserted against the customer by a third party due to such an infringement of rights, the supplier shall be obliged to indemnify the customer against said claims; the customer shall not be authorized – without the supplier's consent – to conclude any agreements with the third party, in particular a settlement.

**11.3** The supplier's obligation to indemnify the customer shall cover all expenses necessarily incurred by the customer from or in connection with the claims raised against it by a third party. In addition, the supplier shall be obliged to reimburse the customer for the damage the latter incurs in connection with the infringement of the rights.

**11.4** The period of limitation shall be ten years as of conclusion of the contract. In addition, the provisions of Section 9 shall apply analogously to legal imperfections in title.

#### **12. Limitations/restrictions to liability**

The supplier shall be liable – on whatever legal grounds – without restriction under the statutory provisions and these Terms and Conditions of Purchase. Any restriction to the statutory and contractual claims for damages (in particular due to liability for delay or defects and product liability) of the customer is hereby expressly objected to, both as regards the degree of fault and the extent and amount of liability.

#### **13. Deliverables of the customer – Documents**

**13.1** The materials or products provided by the customer shall remain its property. They shall only be used as intended. Any combination, processing or mixing of the materials or products provided by the customer shall always be done on behalf of the customer as the manufacturer. If (joint) ownership elapses due to combination, processing or mixing of the materials or products, it is hereby agreed that (joint) ownership of the new object shall pass to the customer in proportion to the ratio of the value of the materials or products provided by the customer to the value of the overall product. The supplier shall hold the (jointly) owned objects of the customer in safekeeping free of charge.

**13.2** All documents, plans, figures, calculations, drafts, manufacturing specifications, samples, drawings, etc. (hereinafter referred to jointly as "documents") provided by the customer to the supplier for the purpose of issuing an offer or fulfilling a contract shall remain the property of the customer. The supplier shall use the documents only as part of fulfilling the contract. Documents shall be returned to the customer free of charge or, if they have been sent electronically, demonstrably deleted, along with any copies made of them, as soon as they are no longer needed to draw up an offer or fulfill the contract. All types of document provided by the customer to the supplier, such as offer documents, samples, drawings, models, data and the like, as well as all other information provided by the customer shall not be made available to third parties where it is apparent that they are not intended for the public, unless this is required for fulfilment of the contract and has been approved by the customer. Products made from documents, drawings, drafts or the like that have been created by the customer or on the basis of confidential specifications of the customer or using tools of the customer or tools reproduced from them shall not be used by the supplier without the customer's prior written consent.

#### **14. Reservation of ownership and other security rights**

The customer shall accept any regulations of the supplier relating to reservation of ownership only in the form of a simple reservation of ownership (reservation of ownership by the supplier up to payment of the specific deliveries in question). All forms of reservation of ownership above and beyond that – in particular extended reservation of ownership and extended group reservation of ownership – and other security rights shall be excluded.

#### **15. Data privacy**

In order to perform the contractual services, the supplier shall only use employees who have been obligated to maintain data confidentiality in accordance with the German Federal Data Protection Act (BDSG). The supplier shall ensure that all employees entrusted with handling or fulfilling the contract comply with the provisions of the German Federal Data Protection Act (BDSG). The supplier shall ensure that the measures to safeguard data have been taken as required by the German Federal Data Protection Act (BDSG) and, upon the request of the customer, shall provide the latter with the information and proof required for job control in accordance with the German Federal Data Protection Act (BDSG).

#### **16. Confidentiality**

**16.1** The supplier shall be obliged to treat with confidentiality all information of which it gains knowledge through the customer (e.g. business and trade secrets, data and its sequence and results, any other type of technical or commercial information) and use it only for fulfilling the contract. The information must never be disclosed to third parties; exemptions to this are employees of the supplier and other vicarious agents, provided they need the information to fulfill the contract. The supplier shall maintain confidentiality on the fact that a contract has been concluded. It shall name the customer as a reference to third parties only with the written consent of the customer.

**16.2** The obligation to maintain confidentiality shall remain in effect for five years after the contract in question ends.

**16.3** The obligation to maintain confidentiality shall not exist as regards information which

- is public domain or

- the supplier gains knowledge of through a third party without an obligation to maintain confidentiality being violated.

**16.4** If the supplier receives or stores information that needs to be kept confidential in electronic form, it shall protect this data like personal data against unauthorized access in accordance with the German Federal Data Protection Act (BDSG).

**16.5** The supplier shall obligate its employees and other persons it uses to fulfil its contractual obligations in accordance with the above provisions on confidentiality and ensure that this obligation is observed.

#### **17. Conflicting prohibitions on retention/offsetting – Assignment**

**17.1** If the service is defective, the customer shall be authorized to retain payments to a reasonable extent, unless good faith indicates otherwise.

**17.2** Any assignment of claims against the customer shall only be effective with the customer's prior written consent.

**17.3** The customer does not consent to any restriction of the statutory possibilities of offsetting claims and of asserting rights of retention.

#### **18. Compliance**

**18.1** The supplier shall observe the customer's Code of Conduct in providing its services and urge its employees to observe it as well. The Code of Conduct can be downloaded from <http://www.euromicron.de/downloads/filemanager/euromicron-verhaltenskodex.pdf> or obtained from the customer upon written request.

**18.2** The supplier undertakes to comply with the statutory provisions on combating illicit work, the German Act on the Posting of Workers (*Arbeitnehmerentsendegesetz (AEntG)*), the German Personnel Leasing Act (*Arbeitnehmerüberlassungsgesetz*) and the provisions under social insurance law, in particular on payment of contributions.

**18.3** The supplier shall be obliged to indemnify the customer against all claims of employees of the supplier, employees of its subcontractors and all employees of all other subordinate subcontractors, any lessors of personnel and the social welfare funds in accordance with Section 1 a AEntG and Section 28 e (3) a-f of German Social Code IV (SGB IV) and other statutory provisions specifying such liability.

**18.4** If the supplier violates the obligations in Sections 18.1 and 18.2, this shall give the customer the right to terminate the contract for an important reason without the need to threaten to terminate it.

#### **19. Place of jurisdiction – Place of performance – Applicable law**

**19.1** If the supplier is a merchant, the place of jurisdiction shall be the place of the customer's registered offices; however, the customer shall be authorized to take legal action against the supplier at the place of the latter's domicile.

**19.2** Unless otherwise specified in the order, the place of the customer's registered offices shall be the place of performance.

**19.3** German substantive law shall apply solely, to the exclusion of the conflict of law provisions, the United Nations Convention on Contracts for the International Sale of Goods (CISG) and reference to German international private law. Only the German text of the General Terms and Conditions of Purchase shall be binding.