

# General Standard Terms and Conditions of Delivery, Payment and Purchase of SKM Skyline GmbH

## I. General

1. The following Terms and Conditions of Delivery and Payment shall apply exclusively to our deliveries and business contracts. Upon receipt of our order confirmation, the principal acknowledges our Terms and Conditions of Delivery and Payment. Different agreements and collateral agreements shall not be valid unless given in writing. General standard terms and conditions of the principal/customer shall not become part of the contract. They are hereby expressly objected to. The acceptance of terms of payment or the delivery of goods does not constitute any consent to the terms and conditions of purchase of the contractual partner. Our terms and conditions shall be deemed as having been accepted at the latest when delivery is taken of the service/goods. They shall also apply to future business relationships, even if they have not been expressly agreed again.

The General Conditions of Supply and Delivery for Products and Services of the Electrical Industry shall also apply.

2. We reserve the right of ownership and copyright to all drawings, drafts, cost estimates, etc. They shall not be made accessible to third parties. We also reserve the rights to reproduce and disseminate them. All documents shall be returned without undue delay if an order is not awarded.

### 3. Offers, order confirmation

- 3.1. Our offers are always without commitment. The documents belonging to them are only for the purpose of giving the ordering party a preliminary means of orientation.
- 3.2. A contract shall not be established until we have issued our written order confirmation. We reserve the right to sell the goods elsewhere up to then.
- 3.3. All offers shall apply up to and including 4 weeks after they are received, unless otherwise agreed.

Metal price listings / metal adjustment factors shall be subject to separate conditions. If goods designations customary in the trade and manufacture are used, the data customary in manufacture is used as the basis for all dimensions, weights and technical details. Further technical and material details are approximates and are intended as a means for the principal/customer to define the goods precisely. We reserve the right to make production-related technical changes in material and structure.

- 3.4. Our written order confirmation alone shall define the scope of the delivery obligation. Warranties relating to qualities or service life within the meaning of the laws on warranties for defects shall not be given, unless they are expressly indicated. We reserve the right to make technical modifications that do not impair the function of the delivered objects during the delivery period. Irrespective of the scope of the order, we reserve the right to make partial deliveries. We shall not conduct any business transactions where

time is of the essence. Prices always relate to the scope of services defined in the offer.

## II. Terms of delivery, passage of risk

1. The deliveries shall be made ex works and dispatched on the account of the ordering party, unless otherwise agreed in writing. Risk shall pass to the ordering party when the goods are handed over for shipment, even if carriage-paid delivery has been agreed. The consignment shall be insured against damage in transit at the request and expense of the ordering party. We shall choose the shipment route and means of transportation, if the ordering party has not specified any shipping instructions, at our equitable discretion and without liability to choose the cheapest means of carriage. If shipment or delivery is delayed at the request of the ordering party or for reasons for which it is responsible, risk shall pass to the ordering party for the period of the delay.
2. Impossibility of performance for which we are not responsible or inability to perform for which we are not responsible shall discharge us from our delivery obligation. The same shall apply in the event of force majeure and for its duration.
3. If the customer unjustifiably refuses to accept deliveries, we shall be authorized at our discretion to insist on fulfillment of the contract or to charge flat-rate damages of 25% of the order's gross value. The customer has the right to prove that we have incurred less damage and we have the right to prove we have incurred greater damage.
4. In principle, it is agreed that excess lengths or short lengths (individual cable lengths and total length of the cables supplied) of up to 10% of the order quantity in deliveries of cables shall be accepted by the principal.
5. In general, delivery periods shall commence after full clearance of the order placed, are approximates and shall not be binding, unless they have been expressly agreed in writing. If ordered goods are not accepted within 4 months, we shall be authorized to charge material costs and increases in prices that have occurred in the meantime.

## III. Prices, taxes and invoices

1. The quoted prices on which the calculation is based shall apply to the specified quantities, relative to the respective units of measure. If quantities other than those quoted are ordered or if details of the order are changed, the price shall be renegotiated (possible markups on small-volume purchases, cutting cost surcharges, etc.). Unless otherwise specified, our prices are net prices and apply to deliveries within Germany. Statutory value-added tax at the applicable rate shall be charged separately on business transactions within Germany. In principle, our prices are ex works and do not include packaging costs, unless expressly agreed otherwise in writing. We shall charge for packaging at cost price. We shall not take the packaging back.

If the net order value is less than EUR 100.00, we shall charge a handling fee of EUR 25.00 plus value-added tax (markup on small-volume purchases).

In the case of cable coils/curt lengths of up to 200 m, a flat-rate coil charge of EUR 40.00 plus value-added tax shall be invoiced.

Important of trade discount is the date of the invoice, copper agio are not allowed for trade discount. Other payments must be in written form approved.

2. Bills are made from 01.01.2016 electronically. Compliant with § 14 paragraph 1 and 3 UStG by Article 5. 1 of the Tax Simplification Act 2011 of 1 November 2011 (I, p. 2131) are paper and electronic invoices from 1 July 2011 sales tax law to be treated equally (§ 14 paragraph n 1 UStG. F.). Equality does not increase the demands on the legality of a paper invoice. With the acceptance of the general Conditions of the grant for the electronic transmission of invoices is issued.

#### IV. Terms of payment

1. Unless otherwise agreed in writing, our invoices shall be payable in net and without deduction within 30 days of the invoice date. The payments shall be made so that we incur no charges. The invoice date is the day of shipment or day on which the goods are ready for shipment. We shall grant cash discounts only if they have been confirmed by us in writing. Alloy adjustment factors shall not be eligible for rebates or cash discounts.
2. We shall not be obliged to accept bills of exchange or checks as payment. Discount charges, tax on bills of exchange and direct debit charges shall be borne by the principal/customer. Acceptance of part payments shall not constitute any extension in the time for payment. We also always reserve the right to take legal action. In the case of payment by bill of exchange or check, our claims shall not be fulfilled until the amounts have been irrevocably credited to our account.
3. Interest, costs of tools, plans, freight outlays and the like shall be payable immediately in net and without deduction.
4. Interest on arrears of 8% above the applicable key interest rate of the European Central Bank shall be charged on delays in payment. If the principal is in arrears in paying an invoice, all the other outstanding claims shall become due for payment immediately and without deduction.
5. If the principal/customer does not pay as agreed or if instigation of insolvency proceedings against the principal/customer is filed for, or if we become aware of circumstances that give us cause for serious doubt as to the ability to pay or creditworthiness of the principal/customer or as to whether the contract will be fulfilled by the principal/customer, we shall have the right – subject to other statutory or contractual rights or claims – to rescind all existing contracts with the principal/customer, of whatever nature, in full or in part; instead of that, we can – at our discretion – defer fulfillment of such contracts, make our willingness to perform the services or deliver the goods contingent on a prepayment or furnishing of suitable security by the principal/customer, or declare that all our existing

claims from the existing business relationship are due for immediate payment.

6. The principal/customer shall be authorized to set off its counterclaims or exercise a right of retention only if the counterclaims have been ruled to be legitimate finally and conclusively or are not disputed.

#### V. Metal price listings and charging

Charging shall based on the DEL listing (Frankfurt Stock Market) one day after the order receipt has been cleared, plus 1% procurement costs.

#### VI. Shipment, packaging

We shall decide on what is the most favorable means of dispatch at our own discretion. If a means of transport is stipulated, any extra costs shall be charged. The goods shall be delivered on the account and at the risk of the principal/customer even if carriage-free delivery has been agreed. Insurance cover shall be taken out at the request and expense of the principal.

Postage, freight and packaging shall be invoiced at cost price in accordance with the above conditions. Cable drums from Kabeltrommel GmbH & Co. KG (KTD), Cologne, shall be subject to the latter's conditions, which it is assumed are known.

Disposable drums and plastic coils shall be charged at cost price and shall not be taken back.

#### VII. Reservation of ownership

The goods shall remain our property until all our claims against the principal/customer have been fulfilled. In addition, the extended forms of reservation of ownership (processing, current account/balance and anticipatory assignment clauses) shall be regarded as having been agreed.

The principal shall only be authorized to resell the goods before paying for them in the ordinary course of business subject to the condition that it imposes the same reservation of ownership on its customers. The principal hereby assigns to us the claims arising from the resale, including the reservation of ownership. The assignment shall be deemed as having been completed tacitly as soon as obligations toward us exist. In the case of composition proceedings against or insolvency or bankruptcy of the principal/customer, our goods shall be subject to a right of separation and recovery.

If the principal is in delay in accordance with these terms and conditions, we shall be entitled to demand immediate surrender of the goods as well as reimbursement for our interest in complete satisfaction of the principal's obligation and for damage caused by the delay.

In the ordinary course of business, the principal/customer may combine or mix the retained goods with other objects or refashion the retained goods for its work. The retained goods shall be processed or refashioned on our behalf as the manufacturer in accordance with Section 950 BGB (German Civil Code), without this giving rise to claims against us. If the retained goods are combined, mixed, processed or refashioned with other objects, we shall

acquire co-ownership of the new object in the ratio of the current value of our goods to the value of the other processed objects at the time of processing. If the expectant right of the principal/customer to the retained goods expires as a result of combination, mixing, processing or refashioning, we hereby transfer to the principal/customer ownership of the new object, but subject to a suspensive condition. If we lose ownership of the retained goods as a result of combination, mixing, processing or refashioning, the principal/customer hereby transfers ownership of the new object to us, but subject to a condition subsequent.

If we are entitled to security rights to an amount that exceeds – not merely temporarily – the value of the secured claims by more than 10%, we shall release a commensurate portion of the security rights at the request of the principal/customer.

The principal/customer shall hold the retained goods – whether they have or have not been combined, mixed, processed or refashioned with other objects – on our behalf with due care and diligence and insure them against customary risks. The principal/customer shall be obliged to inform us immediately of attachment of our security or other claims that third parties assert in relation to our security. In the case of attachment, a copy of the bailiff's record and a statutory declaration in lieu of an oath shall be sent to us, showing that our reservation of ownership still exists and that the attached retained goods are subject to our reservation of ownership; if claims are attached, a statutory declaration in lieu of an oath shall be issued to the effect that the claims derive from resale of the retained goods and that these claims have been assigned to us. The ordering party shall be obliged to provide us with information on the whereabouts of the retained goods and on the claim that has arisen from resale of the retained goods, at any time upon our request. The costs we incur as a result of asserting our rights shall be borne by the principal/customer.

#### **VIII. Liability, notice of defects, complaints, returned goods**

The customer shall be obliged to inspect the goods supplied by us immediately, but at the latest within a period of four days, for errors, defects and correct quantity and to notify us of errors, defects and different quantities immediately, but at the latest within a period of 14 days, in such a way that we are able to identify errors, defects or differences in quantity and from the content of the contract so as to be able to fulfill our obligation of subsequent remedy.

If our customer becomes aware of breaches of duty and/or defects, we shall have a right to subsequently remedy them for the customer within a reasonable period of time, at our discretion by supplying substitute goods or repairing the goods in another way. If the default in performance, breach in duties and/or defects have to be remedied at the place where our product was delivered to the customer or its purchaser in the supply chain, the customer itself or third parties must give us the opportunity to fulfill our rights of subsequent remedy at the place where our product was delivered.

The customer undertakes not to acknowledge any rights arising from defects to its customers or third parties in the supply chain without agreement with us.

In the event of negligent breach of duty, default in performance or defects for which we are to blame, our

liability shall be limited to subsequent repair or supply of substitute goods.

In the event of breaches of cardinal duties and default in the performance of cardinal obligations and/or significant defects, we shall be liable without limitation

- If we are to blame as a result of intent
- For injury to the life, limb or health of persons as a result of gross negligence on the part of the Managing Director and/or executive employees
- For malicious silence with regard to defects
- For warranties that have been expressly issued in writing
- For errors in products for which we are liable for injury to persons or damage to property under the German Produkthaftungsgesetz (Product Liability Law).

We exclude any liability toward our customers for violation of non-cardinal obligations, minor defaults in performance and other secondary obligations, including insignificant deviations from stipulations on performance or qualities for our products.

(We shall be liable for defects, which also include the lack of warranted qualities, as follows:

All those parts or services that, within 12 months starting from the day of the passage of risk, cannot be used or whose use is significantly impaired as a result of a circumstance lying before the passage of risk, in particular due to faulty design, poor material or poor workmanship, shall – at our discretion – be repaired, supplied again or performed again free of charge. We must be notified in writing as soon as such defects are discovered. All costs in connection with subsequent repair, supply of substitute goods or repeat performance of a service, in particular the costs for installation and de-installation, transportation and travelling times shall be borne by the principal.)

If our products are exported by our customer, including if they are further processed or components of them are used, we shall not be liable for the products' being able to be exported and for their not requiring government approval for export and being free to be exported to the countries intended by our customer.

We shall accept returned goods only after prior written agreement with us. Such goods must be identified clearly with the returns number issued by us. Charges for returns shall be clarified individually on a case-by-case basis.

The principal/customer shall observe its contractual obligations, in particular the agreed terms of payment. If a notice of defects is issued, the principal/customer may withhold payments only to an extent that is reasonable in relation to the defects that have occurred.

(The principal/customer shall give us the time and opportunity required at our equitable discretion to remedy defects. If the principal/customer denies us this, we shall be discharged from our liability for defects.)

All rights of the principal/customer to assert claims due to defects shall become statute-barred in 12 months. The period of limitation shall commence on the date of the delivery note under which the goods were delivered. (This period of limitation shall commence when the principal/customer discovers the defect or breach of duty for which we are to blame or could have discovered it if it had applied due care and diligence.)

Liability for defects shall not apply to damage that arises after the passage of risk due to incorrect or negligent handling, excess stressing, unsuitable operating resources or other circumstances that are not envisaged under the contract.

If the principal/customer or third parties make improper modifications, we shall not assume any liability for the resultant consequences.

(The warranty period for incorrect repairs and substitute deliveries shall be 3 months.)

Further claims of the principal/customer against us or our vicarious agents shall be excluded, in particular claims to restitution of damage that has not arisen on the delivered object itself. This shall not apply if there is compulsory liability under the German Product Liability Law (Produkthaftungsgesetz) or as a result of intent or gross negligence.

If absolute proprietary rights of third parties are infringed by our contractual services, we can prohibit the customer from using the affected service with immediate effect as part of subsequent remedy and

- either modify or replace the contractual services so that they no longer infringe the proprietary rights, yet comply with the contractual provisions,
- or acquire the right for the customer to use the contractual services in accordance with the contract without restriction and at no additional costs for the customer.

If subsequent remedy fails, the principal/customer shall be authorized, at its discretion, to demand reduction in the payment (diminution of the purchase price) or to rescind the contract. Two futile attempts at subsequently remedy must usually be conducted before it fails.

#### **IX. Product liability**

If damage arises due to our gross negligence as a consequence of an omission or defect in the workmanship or construction of our products or as a result of incorrect advice, information or operating instructions after our products have been handed over, including pursuant to the foundation for claims under statutory product liability law, we agree between us and our customer that liability shall be limited to the sum insured by us for damage to property and injury to persons under the indemnity insurance taken out by us. At the request of the customer, we shall disclose to it the name of the insurer and the respective insured sum.

The customer waives any additional claims against us in respect of economic loss not covered by our insurer in cases of product liability.

We and our customer exclude product liability claims of third parties as a result of their assignment by the third party to the customer. In addition, the customer cannot assert any claims from the supply chain against us.

#### **X. Hold harmless clause**

We accept no liability if rights of third parties, in particular industrial proprietary rights of third parties, in Germany or abroad are infringed by the use, sale, offer for sale or import of the supplied goods. In particular, we shall not assume liability for any claims for damages, including

lawyers' fees, incurred in connection with legal action pursuant to such infringements of rights.

#### **XI. Impossibility of performance**

If we are not able to supply the goods or services, the general legal principles shall apply, with the following proviso:

If we are to blame for impossibility of performance, the principal/customer shall be authorized to demand damages, but to a limit of 10% of the value of that part of the delivery that could not be delivered due to impossibility of performance.

Claims for damages by the principal/customer above this limit of 10% shall be excluded. This shall not apply where there is compulsory liability in cases of intent or gross negligence.

#### **XII. Other claims for damages**

Unless provided for above, claims for damages by the principal/customer shall be excluded. This shall not apply where there is compulsory liability under general statutory regulations.

#### **XIII. Installation, acceptance, exclusion for obvious defects**

1. If the supplied goods have been installed by us, the customer shall test and accept them on the spot as soon as they have been installed. Immediate notice must be given of visible defects in installation.
2. The provisions of No. 1. shall not apply if the usability of the goods can only be assessed after a trial period. In this case, acceptance shall be regarded as having been declared if the customer has used the goods for longer than 3 weeks without giving notice of significant defects.
3. In addition, claims relating to defects that were not hidden shall be excluded after the goods have been accepted without reservation.

As part of the installation work conducted by us, we shall not be obliged to check preliminary work by third parties and to point out that this preliminary work has been performed improperly or unprofessionally.

#### **XIV. Assignment of claims**

The customer shall not be authorized to assign claims from contracts concluded with us, either in full or in part, to third parties without our written consent. This shall also apply to warranty claims.

#### **XV. Confidentiality**

We and the principal/customer shall be obliged to maintain confidentiality on company and trade secrets and other information and matters of the other party that are confidential or merit protection and that have been entrusted or become known to them as part of or in connection with fulfillment of the order, and shall not use them for its own purposes or the purposes of third parties, but only for lawfully discharging its tasks.

This obligation to maintain confidentiality shall also remain in effect after the respective contract ends.

## **XVI. Export restrictions**

The supplied goods are intended to remain in the Federal Republic of Germany and are subject to the export restrictions of the German Ministry of Economics and the Department of Commerce. They must therefore not be exported without permission. The customer shall have the duty and responsibility to obtain such permission.

## **XVII. Special provisions for service and maintenance agreements**

The following provisions shall additionally apply to service and maintenance agreements:

### **1. Arrangements for performance of services:**

We shall be authorized to have the services we owe performed by third parties. They shall be authorized to perform partial services. Unless otherwise agreed, the services shall be provided at our place of business.

Our "man day" comprises 8 working hours of an employee; services shall be provided only on working days from 8:00 a.m. to 6:00 p.m. Different working time to these shall be possible only after arrangement and subject to payment of the customary overtime and bonuses for work on Saturdays, Sundays and public holidays.

Unless otherwise specified in the individual contract, the principal/customer shall be obliged to pay any expenses, travel expenses, accommodation costs etc. for our employees who may need to be work on site. They shall be charged on the basis of the general customary or specially agreed rates for travel expenses.

### **2. Duty of cooperation on the part of the principal/customer:**

The principal/customer shall support us in providing the agreed services where reasonable, necessary and expedient. The customer undertakes in particular to provide any necessary hardware, software, computing times and means of communication.

If a service cannot be performed for reasons that lie in the responsibility of the principal/customer, in particular because

- the said duties of cooperation have not be discharged at all or on time or
- an error reported did not actually occur during our on-site inspection or
- the principal/customer has failed to observe an agreed deadline,

we shall charge the principal/customer separately for the resultant costs, for which we must provide documentary evidence. Agreed deadlines shall be extended by the time lost as a result of the failure to discharge the duty of cooperation.

### **3. Granting of rights**

When a work result (if applicable) is created or worked on, the principal/customer shall receive the non-exclusive, non-transferrable right to use this work result internally without restriction. In particular, the principal/customer shall have the right to reproduce it without restriction on all known data carriers and in the network, to edit, amend and translate it, but shall not have the right to disseminate the work result in modified or original form or to grant sublicenses.

In particular, we shall be authorized to use process techniques/technologies, development tools, software modules and the work result created under this contract in any way.

### **4. Termination and damages**

We shall have the right to extraordinary termination of this contract if

- the principal/customer is in arrears with the payment of at least two invoices for periodic payments or
- is repeatedly in arrears or
- insolvency proceedings have been instigated on the assets of the principal/customer or
- there is the risk of the financial collapse of the principal/customer.

The provisions of Section 321 BGB (German Civil Code) shall remain unaffected.

Either party shall also have the right to terminate the contract for an important reason.

If the contract is terminated due to arrears in payment, we can also demand damages instead of performance. We shall be authorized in this regard to demand at least 25% of the gross order value as damages, unless the customer can prove that we have incurred less damage or we can prove we have incurred higher damage.

## **XVIII. Advice and information**

If we make suggestions on use of the products, irrespective of whether they are issued in the course of training or on other occasions, they are issued on the basis of the state of the art, our experience and the details given by the principal/customer. However, we cannot guarantee the results to be achieved nor that rights of third parties are not infringed.

## **XIX. Applicable law**

All contracts between us and the principal/customer (including questions of their conclusion and effectiveness, including the General Standard Terms and Conditions) shall be subject to German substantive law as applicable between resident parties. The United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not apply.

## **XX. Data protection**

We undertake to comply strictly with the applicable provisions of German data protection law. This shall relate in particular to the Teleservices Data Protection Act

(TDDSG), the Interstate Media Services Agreement and the Federal Data Protection Act (BDSG). We shall store and process customer data only as part of the business relationship between us and the principal/customer. We shall not pass this data on to third parties.

Use profiles shall only be collected with the consent of the customer and shall not be passed on to third parties.

Address data shall be deleted only in response to a written request. This request must be sent to us personally by the person affected.

We shall not sell or lend the data of the principal/customer to third parties. The principal/customer can be assured that its data will be used only in the business relationship between us and the principal/customer. We undertake this by accepting the order.

#### **XXI. Miscellaneous**

If one or more provisions of these terms and conditions or of the contracts are invalid or unfeasible, this shall not affect the remaining provisions of these terms and conditions or of the contracts. The parties shall replace invalid or unfeasible provisions by valid provisions that correspond as closely as possible to the purpose intended by the provision that was invalid or unfeasible.

Any amendments to or modifications of the contract shall only be valid when given in writing and signed by both parties. This shall also apply to any waiver of the requirement for written form itself.

Neither party shall be authorized to assign rights and/or obligations from the contract, in full or in part, to third parties without the prior written consent of the other party.

We shall be permitted to make assignments of the above type by means of written notification of the purchaser, if the assignee is a company which has at least a 50% shareholding in us or in which we have at least a 50% shareholding.

If we do not exercise a right or authorization at all or in time, this shall not be construed as a waiver of such a right or authorization; likewise, once-only or partial exercise of a right or authorization shall not be construed as a waiver of it.

The headings in these terms and conditions have been inserted solely for the purposes of clarity and do not have any effects on interpretation of these terms and conditions.

The principal/customer hereby subjects itself irrevocably to the jurisdiction of Munich District Court (Landgericht München) and hereby waives irrevocably – where permissible under law – any objections and pleas against the jurisdiction of this court. However, we shall be authorized to instigate legal action or other proceedings against the principal/customer or on its assets before any other competent courts of law.

#### **XXII. Scope**

1. Any delivery of goods and services to us shall be subject to the Terms and Conditions set forth herein to the extent no other agreements have been explicitly made.

2. As far as the client's general terms and conditions are inconsistent with ours, their application shall be subject to our explicit written approval.

#### **XXIII. Orders**

1. Our orders and any changes and additions to the orders must be made in writing or text form.
2. We are entitled to cancel our order free of charge if you do not confirm our order in unmodified form within two weeks after receipt.

#### **XIV. Time-limits, consequences of delay**

1. Agreed time-limits for deliveries of goods and services shall be binding. If delays are expected or occur you shall immediately notify us in writing.
2. If you fail to deliver or perform within an additional period of grace set by us, too, we shall without prior notice be entitled to refuse acceptance, rescind the contract or demand compensation for non-performance. We shall be entitled to rescind the contract even if the delay was not your fault. You shall bear any additional costs incurred by us because of your default, especially those resulting from the necessity to purchase from third parties instead.
3. The right to demand an agreed contractual penalty for inappropriate performance (§ 341 BGB – German Civil Code) shall be reserved for us until the final payment.

#### **XXV. Prices**

Prices shall be fixed prices. They shall include all expenses in connection with the goods and services provided by you.

#### **XXVI. Execution, delivery**

1. You may only subcontract with our consent, unless such contracts are merely for the supply of standard parts. Delivery call orders shall be binding with regard to the nature and quantity of the goods ordered and the delivery time. Part-deliveries shall require our consent.
2. All deliveries must be accompanied by a delivery note stating our order number as well as details of the nature and quantity of the contents.
3. Deliveries shall generally include customary one-way standard packaging. If reusable packaging is used, it shall be provided on loan. Return of the reusable packaging shall be carried out on your account and risk. If as an exception we take over packaging costs, these costs shall be calculated on basis of verifiable net costs.
4. In the event that equipment is delivered, a technical description and instructions for use shall be included free of charge. In case of software products, the delivery obligation shall only have been met once all the (systems and user) documentation has also been delivered. For programs that are specifically developed for us, the program shall also be delivered in source format.

5. When you are delivering goods or providing services on our premises you shall obey the directions for non-employees concerning security, environmental and fire protection currently in force.
6. If the supplier is in default, the purchaser is entitled to , for every day of delay a penalty of 0.3%, maximum of 5% of the total contract amount to calculate.

#### **XXVII. Invoices, payments**

1. Invoices shall be presented to us with separate post; they shall state our order number.
2. Your entitlement to payment shall be due 90 days after receipt of the goods and your invoice or at our choice within 30 days with a 3% discount. Payment shall be deemed to have taken place on the day our bank has received the transfer order.
3. Payments shall not be deemed as acknowledgement that the good or service is in accordance with the contract. In the event that a good or service is defective or incomplete, we shall be entitled, without prejudice to our other rights, to withhold an reasonable amount of payments with regards to debts based on the business relationship until you have performed in accordance with your contractual obligations.
4. The cession of your claims against us to third parties shall be excluded.

#### **XXVIII. Safety, environmental protection**

1. Your goods and services must comply with the statutory provisions, especially the provisions relating to safety and environmental protection, including the regulations on hazardous substances, the ElektroG (German Law on the Marketing, Return and environmentally friendly Disposal of Electric and Electronic Equipment) and with the safety recommendations of competent German professional bodies or organizations, such as VDE, VDI and DIN. The relevant certificates and documents must be supplied free of charge.
2. You shall be obliged to determine and comply with the currently applicable directives and laws with regards to restrictions on hazardous substances for your components. You shall be obliged not to use banned substances. You shall specify all substances to be avoided and all dangerous substances. If applicable you shall submit safety data sheets (at least in German or English) with your offers and with the delivery note of your first delivery. If you have any evidence that your delivery has violated restrictions on substances or contained banned substances you shall be obliged to immediately inform us.
3. With respect to deliveries and the performance of services you alone shall be responsible for compliance with regulations for the prevention of accidents. Any necessary safety equipment and manufacturer's instructions shall be supplied free of charge.

#### **XXIX. Import and export provisions, customs**

1. For goods and services from a country (other than Germany) that is within the EU, the EU value added tax identification number shall be quoted.

2. Imported goods shall be delivered duty paid. You shall be obliged to provide at your own expense the required declarations and information under Regulation (EC) No. 1207 / 2001, allow checks to be performed by customs officials and furnish the requisite official letters of confirmation.
3. You shall be obliged to inform us in writing and detail about any (re-) export license obligations pursuant to German, EU and US export and customs regulations as well as export and customs regulations of the country of origin of the goods and services.

#### **XXX. Passage of risk, acceptance, title**

1. Irrespective of the agreed price terms the risk passes to us in case of delivery without installation or assembly upon receipt at the delivery address we have given and in the event of delivery with installation or assembly upon successful completion of our acceptance. Commissioning or use shall not replace our declaration of acceptance.
2. We shall acquire property of the delivered goods after payment. Any elongated or extended retention of title shall be excluded.

#### **XXXI. Obligation to examine goods and notification of defects, expenses**

1. Examination of incoming goods will take place with regards to obvious defects. Hidden defects will be notified as soon as they are detected according to the circumstances of the orderly course of business. You waive the objection of delayed notification for all defects notified to you within 14 days after detection.
2. If we return defective goods to you we shall be entitled to debit back to you the invoice amount paid plus a lump sum for expenses of 5% of the price of the defective goods. We reserve the right to proof higher expenses. Your right to proof lower or no expenses shall be reserved.

#### **XXXII. Warranty of defects of quality and title**

1. Defective deliveries must be replaced immediately by deliveries that are free from defect, and faulty services must be repeated faultlessly. In the event of development or design engineering defects we shall be entitled to immediately assert the rights provided for under section XXXII. 3.
2. You shall require our consent to repair defective goods or services. You shall bear the risk during the time in which the good or service to be delivered is not in our possession.
3. If you fail to remedy the defect within an additional reasonable period of grace that we have set we shall be entitled at our own discretion to rescind the contract or reduce remuneration and additionally in either case to demand compensation of damages. You shall bear any additional costs incurred by us because of your default, especially those resulting from the necessity to purchase from third parties instead.
4. In urgent cases (especially where operating safety is in jeopardy or for the purposes of preventing an exceptionally high damage or loss), for the removal of insignificant defects and in the event that you are in default of remedying a defect, we shall be entitled,

after notifying you and after a reasonably short period of grace has expired, to remedy the defect and any resultant damage or loss ourselves or through third parties at your expense. This shall also apply if you deliver the good or service late and we have to remedy defects immediately so that we do not miss our own delivery deadlines.

5. The period of limitation for claims for defects of quality shall be 36 months as from the passage of risk in accordance with section XXX. 1.; the period of limitation for defects of title shall be 10 years as from the passage of risk in accordance with section XXX. 1. The expiry of the period of limitation shall be suspended from the date of notification of defects until our claim for defects has been fulfilled.
6. If you have to deliver or perform in accordance with our plans, graphs or other specific demands, you expressly guarantee the conformity with our demands. If delivery or performance deviates from the demands we shall immediately have the rights under section XXXII. 3.
7. Our statutory rights shall in any case be reserved.

#### **XXXIII. Repeated default**

If, after receipt of a warning letter, you are again late in supplying essentially identical or similar goods or services, or such goods or services are again defective, we shall immediately be entitled to rescind the contract. In this case we shall be entitled to rescind contracts with regards to future delivery of goods and services on basis of this or another contractual relationship, too.

#### **XXXIV. Indemnification in the event of defects**

You shall indemnify us against all claims raised against us by third parties –for whatever legal reason– due to a defect of quality or title or another defect of a product delivered by you and shall also reimburse our expenses necessary for the defense against the claims.

#### **XXXV. Technical documentation, tools, means of production**

1. All technical documents, tools, in-house standard sheets, means of production, etc., that we provide shall remain our property; all trademark, copyright or other property rights shall remain with us. They, together with all duplicates that you may have been made, must automatically be returned to us as soon as the order has been executed. You shall not be entitled to assert a right of retention in this respect. You may only use the said objects to execute the order. You may not pass them on, or make them otherwise accessible, to unauthorized third parties. The said objects may only be duplicated in so far as it is necessary for the execution of the order.
2. In the event that you wholly or partly create the objects mentioned in sentence 1 of section 14.1 for us at our expense, section XXXV. 1. shall apply accordingly. We shall own the objects on a pro rata basis according to our share of the costs of manufacture, and you shall keep these objects safe for us free of charge; we may, at any time, acquire your rights in respect of the object by compensating for expenses that have not yet been amortized and reclaim the object.

3. You are obliged to service and maintain the aforementioned objects as well as to mend defects caused by normal wear and tear at your expense. If you, in order to execute our order, subcontract the production of samples and tools to a third party you shall cede to us your claims for cession of property in those tools and samples against the subcontractor.

#### **XXXVI. Provision of materials**

1. Materials that we provide shall remain our property. You shall store them free of charge with due care and diligence. You shall keep them separate from your property and mark them as our property. They may only be used to implement our order.
2. In the event that you process or transform the materials provided, this shall be done for us. We shall become the direct owner of the resulting new objects. If the materials provided only constitute a part of the new objects we shall be entitled to ownership of the new objects on a pro rata basis according to the value of the materials provided and contained therein.

#### **XXXVII. Confidentiality**

1. You shall be obliged to handle confidential and not pass on to third parties all non-evident commercial and technical data that you become known to you through our business relationship.
2. Our prior written consent shall be required for the manufacture for third parties and exhibition of products manufactured specifically for us, especially those made according to our drawings and manufacturing specifications, for publications relating to ordered goods and services and for references to this order vis-à-vis third parties.
3. We point out that personal data in relation to our contractual relationship may be stored by us and may be transferred to companies associated with us in the Euromicron group, too.

#### **XXXVIII. Miscellaneous**

1. The place of performance shall be the given delivery address.
2. The place of jurisdiction, provided that you are a businessman, a legal person under public law or a special fund under public law, shall be the place of business of the company using these general terms and conditions. However, we may also take legal action against you at your place of business.
3. Governing law shall be the law of Germany with the exclusion of the international conflict of laws provisions thereof and with the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).
4. Should any of the clauses of these General Terms and Conditions be wholly or partially invalid, the validity of the remaining clauses or parts thereof shall not be affected.



