

## General purchasing conditions of Mektec Europe GmbH and its affiliated companies

### 1. Application

- 1.1 All orders and purchase orders placed by us, and contracts concluded by us, with entrepreneurs, legal entities of public law or public-law special funds within the meaning of Section 310 paragraph 1 German Civil Code - hereinafter: "Order" - concerning the purchase of goods or services - hereinafter: "Deliveries" - shall be subject to these purchasing conditions exclusively. We hereby object to any terms of our supplier deviating from these purchasing terms or supplementing them; they are not binding upon us. Our purchasing terms shall apply exclusively even if we do not object to the inclusion of the terms of our suppliers from case to case, or accept the supplier's delivery without reservation in spite of knowing of its contrary or supplementary business terms.
- 1.2 These purchasing terms shall also apply to any future transactions with the supplier, even if they are not further agreed on explicitly.
- 1.3 The invalidity or impracticality of individual provisions of these purchasing terms shall not affect the validity of the remaining provisions.

### 2. Conclusion of the contract

- 2.1 All agreements between the suppliers and us, and all orders, shall be binding upon us only if they are recorded in writing. Any modification, supplement or side agreement before, during or after conclusion of the contract shall require our written confirmation as well. The requirement of written form can only be waived in writing. Transfer by telefax, email or remote data transmission shall be equivalent to written form.
- 2.2 If the supplier does not accept our order within a period of 2 weeks after receiving it, we shall have the right to withdraw. Delivery calls shall become binding if the supplier does not object to them within 3 working days from receipt. Any modifications of, supplements to, or other deviations from, our orders shall only be effective if this is explicitly and separately noted and if we explicitly confirm them in writing.

### 3. Prices and payment terms

- 3.1 The prices named in the order are fixed prices. The prices shall include delivery DAP "Place of Delivery" (item 5.1) in accordance with INCOTERMS 2010 of the International Chamber of Commerce (ICC) and any packaging, transport, insurance and any other costs of delivery, except if something different is explicitly agreed. The statutory VAT shall be indicated; otherwise, it shall be deemed included in the price.
- 3.2 If the supplier has taken care of setup, installation and/or commissioning and nothing else is agreed in writing, the supplier shall bear all required secondary expenses, such as travelling expenses and costs for provision of tools.
- 3.3 We can only process invoices if they are submitted to us by separate mail to the invoice address named in the order. Every order shall be invoiced separately. The invoice shall include the order number indicated in our order, the order date, the supplier number and our item number clearly highlighted.

3.4 Invoices shall be issued with the currency used in the order, payments shall be made only in that currency.

3.5 Payments shall be made, at our choice, by money transfer or cheque or bill of exchange after acceptance of the delivery and receipt of an auditable invoice and handover of all documents that belong to the scope of delivery. If nothing different has expressly been agreed in writing, we shall either pay within 30 days subject to a deduction of 3% discount, or within 90 days without deduction, counting from the day of receipt of an auditable invoice (item 3.3).

3.6 Without our advance written consent, the supplier shall not have the right to assign its claims against us wholly or in part, or to otherwise dispose of them. This shall not apply if they are monetary claims and the legal transaction that founded the claim is a trade transaction for both parties or the debtor is a legal entity of public law or a public-law special fund.

### 4. Delivery dates and delivery terms

4.1 The deadlines named in the order, or otherwise agreed, shall be binding and must be complied with precisely. The supplier shall inform us of any delay or exceeding of the agreed deadlines and periods that becomes evident including the reasons and expected duration, without delay.

4.2 Partial deliveries and premature deliveries shall only be permitted if we have explicitly consented to them. In any case, order items that are not completed or delivered completely must be marked explicitly as partial deliveries in the delivery documents. However, the payment claim shall be due at the earliest on the agreed delivery date.

4.3 If nothing else is agreed, the delivery shall include not only the delivery receipt, which must always include the order number, a factory test certificate in accordance with DIN EN 10204, as amended from time to time, or an equivalent internationally accepted test certificate in which the indices agreed with the supplier are listed. Initial deliveries must include an initial sample report.

4.4 Deliveries shall only be possible at the times indicated in the order, or the separately agreed times.

4.5 In case of default of delivery, we shall have the right to claim a contractual penalty at 1% for every commenced week of the default, but in total no more than 10% of the order value; the supplier shall have the right to prove that we have incurred no or a much lower damage. The assertion of further damage is reserved. We are obliged to declare the reservation of a contractual penalty at the latest when paying the invoice that takes place in time after the delayed delivery.

4.6 Events of force majeure that render delivery by our suppliers or acceptance or use of the delivery in our operation, or by the customer, impossible or essentially more difficult, shall appropriately delay our acceptance obligation according to our actual need. In cases of force majeure occurring for us or our supplier we shall, at our choice, also have the right to wholly or partially withdraw from the contract if the performance

obstacle due to force majeure continues for more than two months.

## 5. Place of performance, passing of risk, acquisition of title

- 5.1 The place of performance for the goods to be delivered and the services to be rendered shall be the place according to the order to which the goods must be delivered, or where the work or service is to be rendered ("Place of Delivery"). The place of performance for our payments shall be our registered office.
- 5.2 The delivery shall be made or rendered for the account and risk of the supplier, properly packed for transport DAP "Place of Delivery" at the address indicated by us. The risk of accidental destruction or accidental deterioration of the delivery shall pass to us only at acceptance by us or our charged forwarder at the agreed place of performance, or after final acceptance of the delivery, depending on which time is later, even if we have already agreed to bear the freight costs.
- 5.3 At passing of the risk at the Place of Delivery or at handover to a forwarder specially charged by us, we shall acquire title in the goods without reservation of any rights for our supplier.
- 5.4 Upon delivery of machines and systems, passing of the risk shall only take place after their final acceptance at the place of performance.

## 6. Liability for defects and other liability

- 6.1 The commercial examination and complaint obligations shall be subject to the statutory provisions (Section 377 German Commercial Code), subject to the following proviso: Our examination obligations shall be limited to defects that are evident upon outward inspection and review of the delivery documents (e.g. damage in transport, wrong deliveries and underdeliveries). Notwithstanding our examination obligations, our report (report of defects) shall, in any case, be deemed made without delay and in time if sent within two working days from the time of discovery for obvious defects, and within 14 working days of discovery in case of concealed defects.
- 6.2 As far as this item 6 does not stipulate otherwise, the supplier shall be liable according to the statutory provisions, in particular for defects of the delivery, without this liability being limited by in reason or amount or excluded, and shall indemnify us against any third-party claims in this respect.
- 6.3 If the supplier does not comply with its obligations to remedy defects within an appropriate grace period set by us, we may remove the defect directly, or have it removed by third parties and demand reimbursement from the supplier for the expenses required for this, or a corresponding advance payment. If subsequent performance by the supplier has failed or is unreasonable for us (e.g. due to special urgency, danger to operational safety, other acute dangers or threatening occurrence of disproportional damage) a grace period shall not be required.
- 6.4 Claims due to defects of material shall expire, unless agreed on differently, or unless the law stipulates longer periods, 24 months after sale of the end product to the seller, but at the latest 30 months after delivery to us. For factory services, the period of expiration shall be 30 months from the time of written final acceptance. If the delivery has been used for a

building according to its common purpose and caused the building to be defective, expiration shall only occur 60 months after final accordance. Our rights from Sections 445a, 445b, 478 German Civil Code (supplier recourse) shall not be affected by this provision.

- 6.5 In case of defects of title, the supplier shall also indemnify us against any existing third-party claims. The statutory period of expiration shall apply concerning defects of title.
- 6.6 If defective delivery requires an inbound inspection exceeding the agreed scope (item 6.1), the supplier shall bear the costs for this unless it can prove that it is not at fault for the defect.

## 7. Product liability

- 7.1 The supplier shall indemnify us against any third-party claims from, and in connection with, any injury and property damage if and as far as the cause for this is subject to the area of control and organisation of the supplier. In the scope of this, the supplier shall also be obliged to reimburse us for all expenses in accordance with Sections 683, 670 German Civil Code that arise for us from, or in connection with, any recall campaign or other measure performance by us.
- 7.2 The supplier commits to maintaining product liability insurance with a flat-rate coverage total of at least EUR 3,000,000 (three million Euro) per injury, property and product asset damage; our claims shall, however, not be limited to the coverage total.

## 8. Observation of property rights and provisions

- 8.1 The supplier represents that its delivery and its use does not infringe any commercial property rights or other rights of third parties, and does not violate any statutory or authority provisions of any kind, origin and legal nature. The supplier further represents that the goods delivered by it contain no CFC, PCB or asbestos. The supplier commits to providing all relevant IMDS data (International Material Data System) free of charge upon our request.
- 8.2 The supplier commits to taking all required measures to prevent work accidents and, occupational diseases and work-related health hazards, as well as to ensure effective first aid. The measures to be taken are stipulated in more detail in particular in state, trade association provisions on industrial safety of the BGV and other accident prevention provisions.
- 8.3 The supplier is obliged to all applicable environmental laws of the country of origin, the country of destination as well as any country being transited (incl. REACH, RoHS and others) regarding production, storage and transportation
- 8.4 The supplier commits to complying with the provisions of the Code of Conduct for social responsibility of the Zentralverband Elektrotechnik und Elektronikindustrie e.V. as amended from time to time.
- 8.5 The supplier is obliged to indemnify us against any claims that third parties raise against us for, or in connection with, the delivery and its use (including such that are due to violation of the provisions of this item 8), unless it can prove that it is not at fault for the defect. Item 6.5 sentence 2 shall be applied.

- 8.6 The exemption obligation of the supplier shall also cover all expenses that arise for us from, or in connection with, any claims raised by third parties
- 8.7 Our operating rules for third-party companies as amended from time to time, for drivers, forwarders and visitors, as well as employees and vicarious agents of the supplier, and amended from time to time.

## 9. Reservation of title, tools

- 9.1 We reserve title in the goods provided by us (e.g. parts, components, semi-finished products) and may demand their release at any time. The supplier shall not have any retention right.
- 9.2 The reservation of title shall also cover the products resulting for processing, mixing or combination of our goods at their full value, with these processing taking place for us so that we are deemed the manufacturer. If third-party title is preserved in processing, mixing or combination with third-party goods, we shall acquire shared title at the ratio of the objective values of these goods to each other.
- 9.3 Title in any tools provided to the supplier and produced by the supplier on our order, or tools ordered from third parties to which we have made a cost contribution, shall pass to us at the equivalent amount and shall be clearly marked as our property.
- 9.4 The supplier shall be obliged to keep tools free of charge for us, insure them sufficiently and document insurance protection on demand. The supplier shall be obliged to use the tools exclusively for production of parts intended for us unless agreed on differently in writing.
- 9.5 The supplier shall maintain and service any provided tools at its expense. It shall release the tools to us without delay at our demand without being due any retention right. When releasing the tools, they need to be in an impeccable technical and visual condition according to their previous use. Costs for repair shall be at the supplier's expense. In no case may the supplier scrap any tools without our written consent.

## 10. Quality assurance

- 10.1 The supplier commits to maintaining a quality management system according to DIN EN ISO 9001 that must ensure impeccable quality of the Deliveries to us during the entire business relationship, monitor it at regular intervals by internal audits and initiate the required measures without delay if any deviations are found. We have the right to review the supplier's quality assurance at any time upon advance announcement. The supplier shall allow us to view the certification and audit reports and the inspection procedures performed upon request, including all inspection records and documents concerning the delivery.
- 10.2 Our "Supplier Quality Manual", as amended from time to time, which we will submit to our suppliers on request, and that is also available at [www.mektec.de](http://www.mektec.de), shall be part of all orders and agreements between suppliers and us.

## 11. Secrecy, documents

- 11.1 Any information, recipes, drawings, models, tools, technical records, process methods, software and other technical and

commercial know-how, as well as any work results acquired in connection with his (hereinafter: "Confidential Information") provided by us or acquired about us by the supplier shall be kept secret from third parties by the supplier, and must only be used by the supplier for execution of Deliveries to us, and must only be made accessible to such persons who must have knowledge of the confidential information in the scope of the business relationship, and who have been committed to secrecy according to this provision. This shall also apply for a term of up to 5 years after termination of the business relationship, as long and as far as the supplier is not able to render evidence that it knew of the confidential information at the time of its acquisition, or that it was generally known or became generally known later without its fault.

- 11.2 Any documents (e.g. drawings, figures, test specifications), samples and models, etc. that we provide to the supplier in the scope of the business relationship shall remain our property and shall, at our choice, be released to us at any time upon our request, at the latest at completion of the business relationship (including any existing copies, photocopies, excerpts and reproductions), or destroyed at the supplier's expense. The supplier shall not have any retention right in this respect.

- 11.3 Disclosure of confidential information and any submission of documents, samples or models shall not found any rights in commercial property rights, know-how or copyright for the supplier, and shall not be prior publication and prior use right within the meaning of patent and utility sample law.

## 12. Compliance

The supplier guarantees that it does not maintain any direct or indirect business or other connections with terrorists, terrorist organisations; other criminal or anti-constitutional organisations. As soon as the goods have left our facility, the supplier shall solely be responsible for compliance with the above provisions and shall indemnify us for any claims and costs - including appropriate lawyer's and consultant's fees and fines - that arise for us due to the corresponding violation of laws by the supplier, its affiliated companies or employees, representatives and/or vicarious agents.

## 13. Choice of law and jurisdiction

- 13.1 The law of the Federal Republic of Germany shall apply exclusively, excluding its international private law as far as it refers to application of any other legal code. Application of consistent UN sales law (C.I.S.G.) and other bilateral and multilateral treaties that serve to make intentional sale consistent shall be excluded.

- 13.2 The place of jurisdiction for any claims from business relationships with suppliers, in particular from contracts or concerning their validity shall, at our choice, be the place of delivery (item 5.1) or Weinheim/Bergstraße. However, we shall, at our choice, have the right to also sue the supplier at any other competent general or special place of jurisdiction.

- 13.3 If the supplier has its registered office outside of the Federal Republic of Germany, we shall, at our choice, also have the right to have any claims, disputes or differences of opinion from business relationships with suppliers decided by one or three arbitrators appointed according to the arbitration rules of Zurich Chamber of Commerce, while excluding the regular courts. The court of arbitration shall have its seat in

Zurich/Switzerland. The arbitration proceedings shall take place in English. The arbitration ruling shall be final and binding upon the parties involved.

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