

GENERAL TERMS AND CONDITIONS OF PURCHASING of EMSA GMBH

I. Coverage

1. These General Terms and Conditions of Purchasing (hereinafter referred to as "AEB") of EMSA (hereinafter also referred to as the "orderer") are valid for all purchasing and service agreements, including contracts and agreements concerning delivery of goods to be produced or fabricated, which the orderer concludes with enterprises, corporate bodies under public law and special assets under public law ("suppliers"). These AEB shall be valid analogously for contracts of employment, such as, for example, consulting services. The AEB shall be valid for all purchases of the orderer, regardless of whether they concern tools, machines, component parts, raw materials or any kind of deliveries, including provision of services (hereinafter referred to collectively as the "order").
2. Conflicting, deviating or additional terms and conditions of the supplier shall not be valid even if they are contained in a confirmation of order following the order, and the orderer does not expressly object to or accepts the order without reservation. The silence of the orderer shall mean rejection of the supplier's terms and conditions.

II. Compliance

The supplier and its representatives shall, and shall ensure that its agents, partners, sub-contractors, suppliers, service providers and consultants comply with the requirements of all applicable laws, rules and regulations including but not limited to environmental, health, safety, anti-bribery and anti-corruption laws and regulations. The supplier shall further comply with and ensure that its business practices and relationships with its employees, officers, representatives, sub-contractors and other relevant third parties are at all times in accordance with orderer's "Responsible Purchasing Charter"

- . The orderer may audit suppliers if it deems necessary to ensure proper respect of the above provisions. In case of a failure to comply with the undertakings of the present paragraph the orderer may, upon notice, terminate the contract for breach with immediate effect

III. Order

1. Each order shall be confirmed by the supplier in writing. The agreement shall be concluded, when the supplier confirms the order within 5 days after dispatch of the order or delivers within this period of time. Should the supplier not execute the order, he shall then undertake to inform the orderer of same immediately. Any oral collateral agreements shall be submitted in writing.
2. The orderer shall be able to demand alterations to the delivery items within reason for the supplier. Here the impact, particularly with regard to extra and reduced costs as well as the delivery dates, is to be regulated appropriately by mutual agreement.

IV. Material defects

1. The order must fulfil the specifications agreed upon and that which with the knowledge of the supplier's intended use has to be presumed, at least, however, the mandatory statutory requirements and state-of-the-art. The specifications to be maintained are revealed from the drawings, conditions, specifications made availa-

ble to the supplier by the orderer and with regard to the non-specified characteristics from the initially accepted commercial samples. The order must fulfil the requirements, which the rules and regulations, laws and standards valid in the member states of the European Union specify, particularly with regard to hygiene, safety and environmental protection.

2. Decisive for the contractual state of the goods shall be the condition at the point in time of risk passing.
3. Claims due to material defects shall fall under the statute of limitations in 36 months. This shall not apply, insofar as the law does not provide longer deadlines. The statute of limitations shall be held in check by the orderer notifying the supplier of a defect. In this case, the check shall end with complete elimination of the defect or should the supplier deny supplementary performance. The statute of limitations shall commence at the earliest three months after the end of the check. The statute of limitations shall begin anew for repaired or renewed components.
4. Should the supplier allow an adequate time limit set for him to elapse without having delivered repaired or renewed components, then the orderer shall be able to eliminate the defect himself at the cost of the supplier or to have said defect eliminated by a third party. The statutory regulations concerning the dispensability of a deadline as well as all statutory laws concerning defects including rights of recourse shall remain unaffected.
5. The supplier shall release the orderer from all and any claims of third parties, resultant from non-compliance with the AEB by him, and shall undertake to bear all the costs thus incurred by the orderer.

V. Defects of title

1. The supplier shall ensure that each order is free of the rights of third parties and, in particular by delivery and use of the goods, that no patents or any other industrial property rights of third parties in the country of the agreed upon place of destination, in the European Union and – insofar as the supplier be informed - in the intended country of use are infringed upon.
2. Insofar as the supplier is directly liable to a third party by act of law, the supplier shall release the orderer from claims of third parties arising from any infringements of protective rights and shall undertake to bear all the costs thus incurred by the orderer.
3. Claims due to defects of title shall fall under the statute of limitations in 36 months.

VI. Inspection

1. Within the scope of the incoming goods inspection, the orderer shall be able to admonish obvious defects up to five workdays as of delivery and concealed defects up to five workdays after their discovery, whereby dispatch of the notification within the set time shall be sufficient.
2. The orderer shall have the right to inspect the order prior to its delivery at the supplier's place of business. The supplier must grant access to his production facilities subsequent to prior advance notice (at least 24 hours beforehand). However, this inspection shall not release the supplier from his responsibility to observe his contractual obligations.

VII. Transport, delivery and passing of risk

1. The contractually agreed delivery date shall be binding and is quoted, insofar as nothing else is arranged in writing, arriving "delivered free" to the place of delivery/performance agreed upon. The supplier shall undertake to inform the orderer forthwith, if circumstances arise or become discernible to him, which reveal that the delivery date cannot be kept to. The supplier himself has to make all provisions requisite for maintaining this delivery date with regard to the order as well as to put the entire technical documentation, all administrative documents and all dispatch documents as scheduled at the orderer's disposal.
3. Should the delivery occur before or after the contractually agreed delivery date, the orderer shall be reserved the right to charge the supplier a punitive fine amounting to 0.2 % of the net order value per workday of the default, however, at the most 5 % of the net order value. The supplier shall have the right to verify that as a consequence of his default no or considerably lower loss is incurred. The orderer shall be entitled to be reserved the right to the punitive fine until payment of the goods concerned. Any other claims due to default in delivery shall remain unaffected. The supplier's liability for damage shall also extend to all and any lump-sum compensations and contractual penalties, which the orderer owes his customer due to the supplier's default in delivery, provided that the orderer has informed the supplier of the lump-sum compensation or contractual penalty agreed upon with the customer.
4. Should the supplier be able to foresee that the goods cannot be delivered within the delivery date specified, then the supplier shall immediately inform the orderer in writing, stating the reasons for said default as well as, where possible, the prospective delivery time. The orderer's claims for default in delivery shall remain unaffected by same.
5. Provided that nothing deviating has been arranged between the supplier and orderer, the order shall be executed in packagings in accordance with the specifications stipulated by the orderer as well as in the absence of deviating data in compliance with the standards, terms and conditions valid in EU member states. Damage or loss to the delivered order as well as any consequences of such damage or loss on the orderer, resultant from inappropriate packagings, must be borne by the supplier.
6. Each packaging unit must contain easily read information concerning the order number, the serial number, a description of the deliveries, the delivery quantity or the gross and/or net weight as well as containing information deposited regarding the specifications.
7. Partial deliveries shall only be admissible according to special arrangement.

VIII. Title retention

The supplier's title retention shall only be valid, insofar as due reference is made to the orderer's payment commitment for the particular products concerned, for which the supplier retains title. In particular, extended or prolonged title retention shall be inadmissible.

IX. Drawings, descriptions, samples and means of manufacturing

1. The templates, tools or machines manufactured by the supplier at the orderer's cost as well as the concomitant intellectual or commercial proprietary rights shall devolve upon the orderer's property directly after their production and shall not be retained by the supplier nor be seized by a creditor of the supplier. In the capacity

of a trustee, the supplier shall undertake to make all the necessary provisions for individualisation of the aforementioned the templates, tools or machines, in particular by means of affixing metal labelling or cold marking stating the wording "Property of EMSA - not be pawns nor for sale".

2. Should the orderer deliver in trust the templates, tools or machines on the supplier's industrial premises within the framework of a supplier's agreement, regardless of whether such a trust occurs without charges or for money,
 - the templates, tools or machines shall remain sole property of the orderer, the restitution of which he can demand at any time;
 - the templates, tools or machines shall only be used for fulfilment of the orderer's orders;
 - the supplier shall be responsible for the maintenance as well as for the preventive and corrective measures necessary for correct handling of the templates, tools or machines.
3. Insofar as no converse agreement has been expressly reached, the supplier shall bear the risks associated with the templates, tools or machines as well as all risks connected with their use. The supplier shall insure the templates, tools or machines against all and any damage and losses they might incur (including theft), to an amount that corresponds at the least to the value of their replacement as well as against all and any damage and losses that third parties might cause to them. Proof of insurance shall be submitted to the orderer on his demand.
4. The drawings and descriptions put at the supplier's disposal by the orderer shall remain the orderer's material and intellectual property not for sale which is to be returned unsolicitedly once the order is executed.
5. The supplier shall inform the orderer forthwith of damage to the templates, tools or machines.

X. Prices, invoicing and conditions of payment

1. The contractually agreed prices are calculated, insofar as nothing deviating is arranged in writing, "delivered free" including packaging and transport to the stipulated place of delivery and performance as well as assembly, except when these are arranged differently, plus value added tax.
2. The prices shall be fixed and final for ongoing orders, insofar as no deviating agreement has been reached with the orderer and confirmed in writing by the orderer.
3. Insofar as nothing else is arranged, the orderer shall pay – subject to the stipulation in Subpara. IX. 4. – up to 60 days after delivery and receipt of the proper invoice net.
4. On acceptance of an early delivery, the time for payment shall conform to the delivery date arranged.
5. With deficient delivery or default in delivery, the orderer shall be entitled to retain payment proportionate to the value up until proper fulfilment.
6. Without the consent of the orderer in writing which may not be denied unreasonably, the supplier shall not be entitled to assign his claims against the orderer or have them collected by a third party.

XI. Delivery

The supplier shall undertake not to contract out the order either wholly or in part to sub-suppliers or sub-contractors without the orderer's prior consent in writing. Should the orderer be in agreement that the order be contracted out wholly or in part to a third party as sub-supplier or sub-contractor, the supplier shall remain, from the orderer's viewpoint, the person solely responsible for dealing with the order by the sub-supplier or sub-contractor and shall undertake to ensure that the sub-supplier or sub-contractor observes these AEB.

XII . Research and projects; prototypes; samples; drawings

All research elements worked out for the orderer at his request shall be the sole property of the orderer and shall be handed over to him after technical acceptance. The orderer shall possess inviolable intellectual property rights to all elements and contributions for research.

XIII. Confidentiality

1. Each contracting partner shall utilise all documents (also including samples, models and data) and know-how that he obtains from the business relationship, only for the jointly pursued purposes and to keep his own corresponding documents and know-how confidential towards third parties with the same diligence.
2. This obligation shall commence as of the first receipt of said documents or know-how and shall end 5 years subsequent to the business relationship terminating.
3. This obligation shall not pertain to documents and know-how
 - generally known,
 - that the contracting partner was already aware of on their receipt without his being obligated to non-disclosure,
 - which subsequently are communicated by a third party entitled to transfer.
4. Without the orderer's prior consent in writing, the supplier may not refer to the business relationship with the orderer towards third parties.
5. Should the supplier submit any confidential documents for the attention of sub-suppliers or sub-contractors, he shall undertake to likewise obligate said persons in accordance with the aforementioned terms and conditions.

XIV. Proofs of origin, proofs required by turnover tax law and restrictions on exports

1. The supplier shall provide the proofs of origin demanded by the orderer with all the information required and, properly signed, make same available forthwith. The supplier shall immediately and unsolicitedly inform the orderer in writing, when the data in the proofs of origin for the goods delivered no longer pertain.
2. This applies analogously to the proofs required by turnover tax law in foreign and intra-community deliveries.
3. The supplier shall inform the orderer forthwith, if a delivery be subject, wholly or in part, to restriction on exports in accordance with German or any other laws.

XV. Activity in the orderer's operation

Persons, who work inside the orderer's operation to fulfil the supplier's obligations, shall be subject to the stipulations of the rules of operation and orders of the orderer with regard to accident prevention, industrial safety, environmental and any other regulations applicable there. Hazardous materials may be used inside the

orderer's operation only after consultation with the specialists there and must be correctly identified.

XVI. Other claims, the supplier's liability

1. Insofar as the supplier is responsible for damage to a product, he shall undertake to release the orderer from claims for damages from third parties in this respect, provided that the cause is set in his domain and field of organisation and he himself is liable in relation to third parties.
2. Within the framework of this liability, the supplier shall also undertake to reimburse any outlay in accordance with §§ 683, 670 BGB as well as in accordance with §§ 830, 840, 426 BGB, arising from or in connection with a product recall executed by the orderer or his customers. The orderer shall inform the supplier – wherever possible and reasonable – of the contents and the extent of the recall measures to be executed and give him the opportunity for a response. Any other statutory claims shall remain unaffected thereby.
3. The supplier shall undertake to conclude and maintain product liability insurance adequate in scope and amount. The orderer shall be able to demand of the supplier that he be granted access to the insurance documents. Should further claims for compensation be due to the orderer, they shall be unaffected thereby.

XVII. Liability of the orderer

The orderer, his legal representatives and vicarious agents shall not be liable for the supplier's losses. This exclusion of liability shall not pertain, if an essential contractual obligation has been infringed upon. The exclusion of liability shall likewise not pertain to harm and losses arising from injury to life, body or health, based on deliberate or negligent violation of obligations, as well as to other harm and losses based on deliberate or grossly negligent violation of obligations.

XVIII. Spare parts

1. The supplier shall undertake to have spare parts available for the products delivered to the orderer for a period of at least 10 years after delivery.
2. Should the supplier intend to discontinue production of spare parts for products delivered to the orderer, he shall inform the orderer about the decision concerning this discontinuation forthwith. Subject to Paragraph 1, this decision must be at least 12 months prior to discontinuation of production.

XIX. Force majeure

Force majeure, industrial action, riots, official measures, absence of deliveries from suppliers and any other unforeseeable, inevitable and grievous events shall release the contracting partners from the obligations to perform for the duration of the disruption and to the extent of their action. The contracting partners shall undertake to provide the requisite information forthwith within the framework of what is reasonable and to adjust their obligations, in good faith, to the changed conditions.

XX. General provisions

1. Should individual parts of these AEB be or become invalid, the invalidity of the remaining stipulations shall not be thereby affected.

2. The orderer shall be entitled to terminate the contract without notice, should insolvency proceedings be initiated for the supplier's assets.
3. Should the supplier infringe his essential contractual obligations, then the orderer shall be able to withdraw from the contract or an individual delivery call-off eight (8) days after formal notification by means of a registered letter with acknowledgment of receipt without the supplier being entitled to any claims for compensation towards the orderer.

XXI. Place of fulfilment, place of jurisdiction and applicable law

1. The place of fulfilment for the goods shall be the place of destination specified by the orderer.
The place of fulfilment for the orderer's payments shall be the place of operation of the contracting partner who has concluded the contract.
2. The orderer's place of business shall be the place of jurisdiction for all legal disputes. The orderer shall also be entitled to take legal action at the supplier's registered office.
3. The laws of the Federal Republic of Germany shall be solely applicable for the contractual relationship.
Application of the UN Convention on Contracts for the International Sale of Goods (CISG) dated 11th April 1980 shall be precluded.