

# General Terms and Conditions of Purchase

## Innovative Sensor Technology IST AG, CH-9630 Wattwil

The following Conditions of Purchase shall be applicable to our orders, if nothing to the contrary has been agreed in writing. General terms and conditions of supplier shall only be applicable, if we consent to them in writing.

### 1. Order placing and acceptance

- 1.1 Placed orders and agreements shall only be binding, if they are in writing.
- 1.2 Supplier shall immediately confirm the order in writing.  
If we are not in receipt of the order confirmation within 14 days after order date we shall be entitled to rescind the order without supplier being entitled to any claims from this rescission.

### 2. Period of delivery

- 2.1 Agreed delivery dates shall be binding. Observing delivery dates shall depend on the receipt of the shipment at its destination.
- 2.2 If supplier recognises that it cannot supply completely or partly on time it shall inform us immediately stating the reasons and the expected duration of the delay.  
If we encounter difficulties in complying with our delivery commitments due to the delay, the supplier shall be entirely liable for any consequential losses accruing to us. If the delay exceeds 15 days, we shall be entitled to cancel the contract and claim compensation in damages.
- 2.3 Part shipments shall only be permitted if we consent to them in writing.
- 2.4 Our obligation to take delivery shall be extended in case of force majeure, labour dispute, plant interruption, lack of energy or raw materials, public disorders and other unpredictable and inevitable events for which we are not responsible for the duration of the interruption and the scope of its effect. We shall inform supplier immediately on the beginning and end of the obstacles mentioned above. Delay in acceptance of delivery/payment cannot be claimed against us.

### 3. Supplier's duty to inform

- 3.1 Prior to changes in production procedures, materials or purchased parts for the products, pro-duction site changes, also prior to changes in procedures and facilities for product testing or other quality assurance measures supplier shall inform us in good time so that we shall be able to assess whether such changes will have a detrimental effect. Supplier shall have to obligate third parties it involves for the fulfilment of its obligations towards us respectively. It shall also indicate a change of its service providers and suppliers during the period of supply of the goods to us. If disadvantageous effects cannot be excluded supplier shall ensure our supply with unchanged parts until we shall have found an alternative solution. If supplier cannot ensure sup-plying us according to our opinion and a written inquiry to supplier, we are entitled to cancel the contract and procure cover. In this case, supplier shall bear all established additional costs incurred by the procurement of cover.

### 4. Delivery / acceptance

- 4.1 Every shipment shall be accompanied by delivery notes stating our order and material number, type of packaging as well as quantity and weight of the shipment. For services, the number of hours performed as well as materials provided by supplier shall be confirmed by a representative of our plant.
- 4.2 A separate invoice for each order shall be sent to our address after shipment in duplicate.
- 4.3 Until the receipt of proper delivery and forwarding papers by us supplier shall not have complied with its supply commitment. Until this time, we shall be entitled to store the shipment at supplier's cost and risk.

### 5. Pricing and payment

- 5.1 Agreed prices shall be firm prices including packaging and free place of destination, if nothing has been agreed to the contrary.
- 5.2 All payments shall be made reserving the rights in relation to possible defects. Should supplied goods be defective we shall be entitled to exercise a right of retention. Payments shall not imply a recognition of performance or a waiver of warranty or compensation in damages. The same shall be applicable to the receipt of our goods receiving department.

### 6. Packaging

- 6.1 Goods to be delivered shall be packaged as customary in trade or, upon our request, in special packaging according to our instructions.

### 7. Passage of risk

- 7.1 Risk shall pass to us once the shipment has been properly handed over to us at the stipulated place of destination or has been accepted by us. The same shall be applicable if transport persons or haulage contractors are involved.

### 8. Warranty

- 8.1 The warranty period shall be **24 months**. For individual parts, the period shall start on the date of acceptance (contract for work) by us or delivery (purchase contract) to us, for machines or plant parts, on the date the final acceptance protocol is signed.
- 8.2 Supplier shall warrant that the delivery item is free of title or redhibitory defects upon delivery to us or our customer and corresponds to the state of the art, relevant laws, protection and accident prevention provisions as well as the common and technical quality assurance standards (e.g. SEV, DIN, VDE, VDI, TÜV, Ex-guidelines of BG). If the wording of these standards varies, the Swiss version shall be authoritative.
- 8.3 Upon receipt, we shall examine the goods for obvious defects, identity, shortage as well as transport damage. We shall not be obliged to conduct any other examination. Possible defects or other deviations shall be indicated to supplier within an appropriate period of time. As far as this is concerned, supplier shall waive the objection to a belated notice of defects.
- 8.4 If defects occur we shall be entitled, in urgent cases or after the unsuccessful expiry of an appropriate period of grace and at supplier's expense, to rectify the defects ourselves, have them rectified by a third party or otherwise obtain replacement.
- 8.5 Supplier shall bear all costs for rework or replacement purposes at the respective place of use of the goods. We shall inform supplier of the place of use upon request.
- 8.6 If we take our own products back due to defective supplier's product or if the purchase price is reduced for this reason or if we are held liable in any other way we shall reserve the right of recourse to supplier. An otherwise usual stipulation of a time limit shall not be required. Supplier shall also reimburse us for the expenditure incurred in this respect. Irrespective of the arrangement of Item 8.1, the claims mentioned above shall become statute-barred, at the earliest, two months following the date on which we shall have met the claims of our customers, latest, however, after 5 years.
- 8.7 If a redhibitory defect becomes apparent within 6 months after delivery it shall be assumed that the defect was already present at the time of delivery.

- 8.8 The warranty period shall start again for repaired or replaced parts.

### 9. Liability

- 9.1 To cover general liability risks, supplier shall be obliged to take out liability insurance with an amount insured of at least **2 million CHF** and to provide evidence of the existence of the cover.
- 9.2 If product liability claims are brought against us supplier shall indemnify us to the extent supplier would be directly liable (amount of damages, court fees, prosecution costs due to the assignment of a lawyer, etc.). Upon our request, supplier shall also provide an appropriate advance payment for court and lawyer to us. In the same way, supplier shall reimburse us for the costs incurred by us due to damage prevention (e.g. recall actions); this shall also be applicable to recognisable and immanent serial defects.
- 9.3 If supplier's staff members or representatives work on our or our customers' premises, they shall observe the accident prevention regulations and all other safety provisions as well as the respective plant regulations.  
Supplier shall bear all damages resulting from the non-observance of these regulations. Otherwise, supplier shall also be liable for any behaviour of even ordinary negligence of its staff members or representatives.  
Our liability shall be limited to damages caused by us through gross negligence or intention. This shall not be applicable to physical injury.

### 10. Proprietary rights of third parties

- 10.1 Supplier shall be liable that no proprietary rights, e.g. patents or utility models, other rights or business or industrial secrets of third parties, are violated by the utilisation of the supplied goods – including the country of their use. As far as this is concerned, supplier shall indemnify us for possible claims of third parties.
- 10.2 In addition, supplier shall be liable for any further direct or indirect damage resulting from the violation of such rights for us.
- 10.3 This right shall not be applicable as far as supplier produces goods exclusively in accordance with our drawings and models and does not know that the production of such goods violates third party rights.

### 11. Means of production, samples, drawings

- 11.1 The ownership in tools commissioned and paid by us shall pass to us upon complete payment. Transfer of possession shall be replaced by the supplier keeping the items with the prudence of a proper businessman for us without any charge. Our property shall be indicated on the items themselves and in business records.
- 11.2 Documents as well as items of all kinds, e.g. samples, drawings, tools, models and similar items, provided by us to supplier shall be returned to us upon our request. Such resources shall not be used by supplier for its own purposes neither shall they be made available to third parties. Under no circumstances shall supplier claim a right of retention in these resources.
- 11.3 When granting contracts for work of any kind (e.g. research and development orders) we shall be exclusively and comprehensively entitled to the results of the work as well as any generated intangible asset rights. The decision as to whether proprietary rights are applied for shall be exclusively ours. If an order generates copyrights supplier shall grant us unlimited in respect of time and space as well as exclusive rights of use and exploitation in the work. In software development, supplier commits itself to assign and/or transfer to us all of its own copyrights or those of its employees. This is also applicable to source codes.
- 11.4 Supplier shall neither use for its own purposes nor offer or supply to third parties products manufactured according to documents designed by us (e.g. drawings, models and similar items) or according to our confidential information or with our tools or reproduced tools.
- 11.5 Supplier shall commit itself to maintain secrecy in relation to all details of our orders, e.g. quantities, technical design, terms and conditions, etc., towards third parties. The inclusion of our company in a list of credentials or using our order for advertising purposes shall only be permitted after our written consent has been obtained.  
Supplier shall commit itself to pay a contract penalty amounting to 30% of the order value in case of any infringement(s) on this obligation to maintain secrecy as well as infringements on the provisions of this Item 11 in general. In addition, we shall be entitled, in particularly severe infringements, to cancel the complete contractual relationship with supplier without notice and compensation and to reclaim possibly effected payments. A particularly severe infringement shall be especially constituted, if supplier passes on its acquired or received knowledge to third parties in competition with us. Apart from the contract penalty, the collection of further compensation in damages is explicitly reserved.

### 12. Provision of materials

- 12.1 Materials provided by us shall remain our property. They shall be orderly and separately stored, clearly identified as our property. Supplier shall be liable for any damage or loss of provided materials, even if supplier is not responsible for this. Supplier shall take out sufficient insurance cover against fire and water damage as well as theft at its own expense.
- 12.2 The material shall only be used for its intended purpose and shall be returned to us to the extent it is not required for the order.
- 12.3 After processing of provided materials we shall acquire joint ownership in the produced item corresponding to the value ratio.

### 13. Assignment

- 13.1 Assignment or pledging of the rights arising to supplier from the contract shall only be effected with our written consent.

### 14. Place of fulfilment and jurisdiction and governing law

- 14.1 Place of fulfilment for all shipments and services shall be the destination stipulated by us.
- 14.2 Place of jurisdiction shall be the competent court for our place of business. However, we shall also be entitled to take legal action at the competent court for supplier's place of business.
- 14.3 Swiss law is applicable excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG).
- 14.4 Should individual provisions of these Conditions of Purchase be ineffective, either wholly or in part, the other provisions will remain effective.

