

## Terms and Conditions of Purchase of Innovative Sensor Technology IST AG

Unless other terms or conditions have been agreed upon in writing, solely the following terms and conditions of purchase apply to all present and future orders. The supplier's or contractor's (subsequently jointly referred to as „Supplier“) terms and conditions of business apply only to the extent to which we have agreed to them in writing.

### 1. Placing and Acceptance of Orders

1.1 Only written orders and agreements are binding. In particular, our employees are required to confirm in writing oral supplementary agreements or commitments that go beyond the contents of the written contract or change these terms and conditions of purchase to our disadvantage.

1.2 The Supplier must confirm the order in writing without delay.

Should we have no order confirmation within 14 days after the order date, we may cancel the order without the Supplier deriving claims from the cancellation.

### 2. Period of Delivery

2.1 The agreed-upon deadlines are binding. Compliance with a delivery date or the delivery period depends on the arrival of the delivery at the delivery address. Should an acceptance procedure be required by law or have been agreed upon, compliance depends upon successful acceptance by a person authorized by us to accept the products.

2.2 As soon as the Supplier realizes that punctual fulfillment of his delivery and/or service obligation (subsequently jointly referred to as „Delivery“) is wholly or partially impossible, he must notify us thereof in writing without delay and give the reasons for and the anticipated length of the delay.

2.3 Partial deliveries are allowed only when we agree 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.

2.5 Should delivery be delayed, and should the delay be attributable to the Supplier, we may charge a contractual penalty of 0.2% of the agreed-upon total price of the delivery for every day of delay. This contractual penalty is limited to a maximum amount of 10% of the agreed-upon total price of the delivery. This contractual penalty

may be claimed until the final payment has been made. Further statutory rights are not affected. The Supplier may prove that damages are less than the contractual penalty.

### 3. Supplier's Obligation to inform

3.1 The supplier must inform us far enough in advance of changes in the manufacturing processes, materials, or supplied parts for the products; of relocations of the places of manufacture; as well as of changes in procedures and equipment for testing the products or in other quality assurance measures that we can determine whether the changes might have adverse effects. The supplier must also require third parties with which he has contracted to fulfil his obligations to us to do the same. While he is supplying goods to us, the supplier must also notify us of changes in his suppliers and service providers. If adverse effects cannot be excluded, the supplier must ensure that we are delivered unmodified parts until we have found an alternative solution.

3.2 In case of discontinuing products the Supplier undertakes to inform IST AG with a written timely announcement, but at least 12 months before discontinuation of products or services. Hereby IST AG has the opportunity to place a „last call“ respectively „last time buy“.

### 4. Delivery / Acceptance

4.1 Every delivery must be accompanied by bills of delivery containing our purchase order number, our stock number, the packaging type, as well as the amount and the 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 Unless otherwise agreed, after delivery, two copies of the invoice must be sent by letter to our address for each individual shipment. The invoice may not accompany the shipments.

4.3 We may specify the shipment mode as well as the carrier. Otherwise, the Supplier must choose the mode of transportation most advantageous for us.

4.4 The Supplier has not completely fulfilled his delivery obligations until the proper delivery and shipping papers have arrived. Until we receive these documents, we may store the products at the Supplier's expense and risk.

### 5. Pricing and Payment

5.1 The agreed-upon prices are fixed prices, include packaging, and are DDP to the delivery address (Incoterms® 2010).

5.2 Unless other terms have been agreed upon, we may choose to pay either

- within 14 days with a 3% discount or
- within 30 days net.

We reserve the right to choose the means of payment. The payment period starts after the products have been received completely and according to the contract, and after receipt of the documents specified in Section 4, but not before the agreed-upon delivery date.

5.3 Payments are made with reservation of all rights concerning possibly defects. Should the delivered products be defective, we are entitled to the statutory rights concerning withholding and offsetting payment. Payment does not mean we admit fulfillment or waive warranty or compensation for damages. The same reservation applies to a receipt of delivery from our receiving department.

5.4 The products are covered by our transportation insurance and no additional insurance is necessary.

## 6. Packaging

6.1 The products to be delivered are to be packaged as is customary in the trade, or, at our request, with special packaging according to our instructions.

6.2 We may return the packaging to the point of departure at the Supplier's expense and may claim a credit of 1/3 of the cost originally charged for this packaging for its return.

## 7. Assumption of Risk

We assume risk according to DDP at the delivery address (Incoterms® 2010). This condition also applies when we, by way of an exception, use our own transportation personnel.

## 8. Warranty

8.1 The period of limitations for claims due to defects is 36 months. The statutory period of limitations applies to buildings and building materials. The period of limitations begins with delivery or if – an acceptance procedure has been agreed upon or is required by law - upon final acceptance.

8.2 The Supplier warrants that the products are free of defects of title and of material defects at assumption of risk and conform to the accepted state of the art, the relevant laws, safety and accident prevention regulations, as well as to the accepted and technical quality assurance standards (e.g. SEV, DIN, VDE, VDI, TÜV, explosion danger guidelines of the appropriate professional organization). Should there be differences between these standards, the German version is valid.

8.3 After arrival, we will inspect the goods for obvious defects, identity, and shortfall quantities, as well as for transportation damage. An obligation for further inspection does not exist. We will report any defects or other deviations to the supplier within a reasonable period of time. In this

respect, the supplier waives objections based upon the delayed notification of defects.

8.4 Should there be defects, we may choose between demanding rectification of defects or delivery of replacement goods.

After a reasonable additional extension period has expired without results, or, should, because there is particular urgency, it no longer be possible to set an additional extension period, we may, after notifying the Supplier, ourselves undertake to remedy the defect, to have the defect remedied by a third party, or to obtain replacement goods elsewhere. Unless the Supplier is not responsible for the defect, he must bear the resulting costs.

8.5 The Supplier must bear all expenses caused by remedy at or delivery of replacement goods to the place at which the products are in use. At the Supplier's request, we will inform the Supplier of the place at which the products are in use.

8.6 Unless the effort for the supplementary performance is negligible or the supplementary performance is an explicit act of goodwill by the Supplier, should the Supplier repair the delivered products or replace them either partially or wholly, the period of limitations according to Subsection 8.1 with respect to this defect begins anew.

## 9. Liability

9.1 In order to cover his general risk of liability, the Supplier must conclude a general liability insurance policy with an insured sum of at least 5 million EUR and prove that this coverage exists.

9.2 Should claims based on product liability be made against us, the Supplier must exempt us from such claims at our first written request if and insofar as the damage has been caused or contributed to by a defect in the products provided by the Supplier. This term does not apply in those cases of fault-dependent liability in which the Supplier is not to blame.

9.3 If the cause of the damage lies in the Supplier's area of responsibility, proof that the defect caused the damage is sufficient; otherwise, the Supplier carries the burden of proof.

9.4 In any case, the Supplier always assumes the costs and expenses, including the costs of possible litigation or recall, corresponding to his proportion of the cause or fault. This condition also applies in cases of discernible or imminent serial defects.

9.5 The Supplier must bear damages arising from noncompliance with these terms and conditions, the Supplier is as liable for the negligent or intentional acts of his vicarious agents as he is for his own faults.

## 10. Work at our or our Customers' Premises

10.1. Should the Supplier's employees or agents work at our or a customer's premises, they must observe the accident prevention regulations and all other safety rules, as well as the applicable

plant regulations. They may not begin work without knowledge of these regulations.

10.2 There must be an acceptance procedure with regards to assembly and installation. Acceptance has occurred when our authorized representative has accepted the Supplier's services expressly and in writing as conforming to the contract. We may still assert a claim based on defects at the time of final payment. Should we not fulfill our duty to accept the services, the Supplier must allow us a grace period of at least 3 weeks.

10.3 The hours worked, as well as the material provided by the Supplier, must be confirmed by us in writing within a reasonable period of time after the work has been done.

### **11. Third Party Industrial Property Rights**

11.1 The Supplier warrants that no third-party industrial property rights, e.g., patents, utility patents, or other rights; or business or trade secrets, will be violated by the use of the delivered products, even in the country of end use. He must exempt us to this extent from any possible third-party claims.

11.2 The supplier is liable for every direct or indirect damages occurring to us due to his violation of such rights.

11.3 The Supplier is not liable to the extent that he manufactures the products exclusively according to our drawings and/or models and he did not know or could not have known that the manufacture of these products violated third-party rights

### **12. Manufacturing Equipment; Rights to Prototypes, Drawings and Models**

12.1 Tools and other manufacturing equipment made on our behalf and paid for by us become our property as soon as payment is completed. Transfer of possession will be replaced by the Supplier borrowing the item from us. The Supplier must store the items owned by us separately from items not belonging to us. Our ownership of the items must be noted on the items themselves and in the Supplier's account books. After the business association has ended, the manufacturing equipment must be surrendered upon our request. These tools and manufacturing equipment may neither be used by the Supplier for his own purposes nor be made available to third parties.

12.2 We are solely and exclusively entitled to the results of the services as well as the intellectual property rights deriving from awarding contracts for services of any kind (i. e., research and development contracts). The decision as to whether industrial property rights are to be registered is solely ours. Should copyrights result from a contract, the Supplier grants us temporally and geographically unlimited sole usage rights to the work.

12.3 Items manufactured according to documentation created by us (such as drawings, models, etc.) or according to our confidential information or with our tools or copied tools may neither be used by the Supplier for his own purposes nor offered or delivered to third parties.

### **13. Nondisclosure**

13.1 The supplier obligates himself to maintain confidentiality with respect to third parties regarding all details of our order, e.g., number of pieces, technical construction details, commercial conditions, etc. The placing of our company on a reference list or use of our order for advertising purposes is permitted only after obtaining our written permission.

13.2 Documents, as well as articles of all types (e.g., patterns, drawings, tools, models, and similar items) that we have made available to the supplier are to be returned to us without charge and without being requested as soon as they are no longer required for the execution of the order. Such documents may neither be used by the supplier for his own purpose nor be made accessible to third parties.

13.3 Except for those cases in which he is not at fault, the supplier obligates himself to pay a contractual penalty of 20% of the order value for violation(s) of this confidentiality obligation. In addition, for especially severe violations, we have the right to terminate the complete contractual relationship with the supplier without notice and without compensation, and, when appropriate, demand return of payments already made. An especially severe violation of the obligation has been committed when the supplier gives knowledge obtained from us or provided by us to competing third parties.

### **14. Provision of Material**

14.1 Materials we provide remain our property. These materials must be stored properly and separately and must be clearly marked as our property.

14.2 The Supplier must inform us of all defects which the provided materials have at the time at which they are transferred to him in writing without delay. This information must be sent to the responsible purchasing agent. The Supplier is liable for all other damage to or loss of materials we provide.

14.3 The Supplier must conclude an adequate insurance policy (particularly against fire and water damage as well as against theft) at his own expense.

14.4 The material provided by us may be used only for the designated purpose and is, to the extent it is not necessary for the order, returned to us.

14.5 After processing of the provided materials, we acquire title to the new goods in the propor-

tion of the value of the provided materials in the item manufactured.

#### **15. Assignment**

Rights granted to the supplier under this contract may be assigned or pledged only with our written agreement. This condition does not apply to monetary claims. However, we can perform to the supplier with the effect of a full discharge.

#### **16. Place of Performance, Place of Jurisdiction and applicable Law**

16.1 The place of performance for all deliveries, services and payments is the destination we specify.

16.2 Gerichtsstand ist das für unseren Geschäftssitz zuständige Gericht. Wir sind jedoch auch berechtigt, das für den Sitz des Lieferanten zuständige Gericht anzurufen. The place of jurisdiction is the court that is competent at our place of business. However, we have the right to initiate legal proceedings in the court of competent jurisdiction for the supplier's place of business.

16.3 Swiss law applies

16.4 Should individual provisions of these Conditions of Purchase be ineffective, either wholly or in part, the other provisions will remain effective.