GENERAL CONDITIONS
FOR THE SUPPLY OF PRODUCTS AND SERVICES OF THE ELECTRICAL AND ELECTRONICS INDUSTRY ("GL")*
for commercial transactions between businesses

recommended by ZVEI - Zentralverband Elektrotechnik- und Elektronikindustrie e. V.

– as of June 2005 –

I. GENERAL PROVISIONS

1. Legal relations between Supplier and Purchaser in connection with supplies and/or services of the Supplier (hereinafter referred to as "Supplies") shall be solely governed by the present GL. The Purchaser's general terms and conditions shall apply only if expressly accepted by the Supplier in writing. The scope of delivery shall be determined by the congruent mutual written declarations.
2. The Supplier herewith reserves any industrial property rights and/or copyrights pertaining to its cost estimates, drawings and other documents (hereinafter referred to as "Documents"). The Documents shall not be made accessible to third parties without the Supplier's prior consent and shall, upon request, be returned without undue delay to the Supplier if the contract is not awarded to the Supplier. Sentences 1 and 2 shall apply mutatis mutandis to the Purchaser's Documents; these may, however, be made accessible to those third parties to whom the Supplier has rightfully subcontracted Supplies.
3. The Purchaser has the non-exclusive right to use standard software and firmware, provided that it remains unchanged, is used within the agreed performance parameters, and on the agreed equipment. Without express agreement the Purchaser may make one back-up copy of standard software.
4. Partial deliveries are allowed, unless they are unreasonable to accept for the Purchaser.
5. The term „claim for damages" used in the present GL also includes claims for indemnification for useless expenditure.

II. PRICES, TERMS OF PAYMENT, AND SET-OFF

1. Prices are ex works and excluding packaging; value added tax shall be added at the then applicable rate.
2. If the Supplier is also responsible for assembly or erection and unless otherwise agreed, the Purchaser shall pay the agreed remuneration and any incidental costs required, e. g. for traveling and transport as well as allowances.
3. Payments shall be made free Supplier's paying office.
4. The Purchaser may set off only those claims which are undisputed or non-appealable.

III. RETENTION OF TITLE

1. The items pertaining to the Supplies ("Retained Goods") shall remain the Supplier's property until each and every claim the Supplier has against the Purchaser on account of the business relationship has been fulfilled. If the combined value of the Supplier's security interests exceeds the value of all secured claims by more than 10 %, the Supplier shall release a corresponding part of the security interest if so requested by the Purchaser; the Supplier shall be entitled to choose which security interest it wishes to release.
2. For the duration of the retention of title, the Purchaser may not pledge the Retained Goods or use them as security, and resale shall be possible only for resellers in the ordinary course of their business and only on condition that the reseller receives payment from its customer or makes the transfer of property to the customer dependent upon the customer fulfilling its obligation to effect payment.
3. The Purchaser shall inform the Supplier forthwith of any seizure or other act of intervention by third parties.
4. Where the Purchaser fails to fulfil its duties, fails to make payment due, or otherwise violates its obligations the Supplier shall be entitled to rescind the contract and take back the Retained Goods in the case of continued failure following expiry of a reasonable remedy period set by the Supplier; the statutory provisions providing that a remedy period is not needed shall be unaffected. The Purchaser shall be obliged to return the Retained Goods. The fact that the Supplier takes back Retained Goods and/or exercises the retention of title, or has the Retained Goods seized, shall not be construed to constitute a rescission of the contract, unless the Supplier so expressly declares.

IV. TIME FOR SUPPLIES; DELAY

1. Times set for Supplies shall only be binding if all Documents to be furnished by the Purchaser, necessary permits and approvals, especially concerning plans, are received in time and if agreed terms of payment and other obligations of the Purchaser are fulfilled. If these conditions are not fulfilled in time, times set shall be extended reasonably; this shall not apply if the Supplier is responsible for the delay.
2. If non-observance of the times set is due to force majeure such as mobilization, war, rebellion or similar events, e. g. strike or lockout, such time shall be extended accordingly. The same shall apply if the Supplier does not receive its own supplies in due time or in due form.
3. If the Supplier is responsible for the delay (hereinafter referred to as "Delay") and the Purchaser has demonstrably suffered a loss therefrom, the Purchaser may claim a compensation as liquidated damages of 0.5 % for every completed week of Delay, but in no case more than a total of 5 % of the price of that part of the Supplies which due to the Delay could not be put to the intended use.
4. Purchaser's claims for damages due to delayed Supplies as well as claims for damages in lieu of performance exceeding the limits specified in No. 3 above are excluded in all cases of delayed Supplies, even upon expiry of a time set to the Supplier to effect the Supplies. This shall not apply in cases of mandatory liability based on intent, gross negligence, or due to loss of life, bodily injury or damage to health. Rescission of the contract by the Purchaser based on statute is limited to cases where the Supplier is responsible for the delay. The above provisions do not imply a change in the burden of proof to the detriment of the Purchaser.
5. At the Supplier's request, the Purchaser shall declare within a reasonable period of time whether it, due to the delayed Supplies, rescinds the contract or insists on the delivery of the Supplies.
6. If dispatch or delivery, due to Purchaser's request, is delayed by more than one month after notification of the readiness for dispatch was given, the Purchaser may be charged, for every additional month commenced, storage costs of 0.5 % of the price of the items of the Supplies, but in no case more than a total of 5 %. The parties to the contract may prove that higher or, as the case may be, lower storage costs have been incurred.

V. PASSING OF RISK

1. Even where delivery has been agreed freight free, the risk shall pass to the Purchaser as follows:
   a) if the Supplies do not include assembly or erection, at the time when the Supplies are shipped or picked up by the carrier. Upon the Purchaser's request, the Supplier shall insure the Supplies against the usual risks of transport at the Purchaser's expense;
   b) if the Supplies include assembly or erection, at the day of taking over in the Purchaser's own works or, if so agreed, after a fault-free trial run.
2. The risk shall pass to the Purchaser if dispatch, delivery, the start or performance of assembly or erection, the taking over in the Purchaser's own works, or the trial run is delayed for reasons for which the Purchaser is responsible or if the Purchaser has otherwise failed to accept the Supplies.

VI. ASSEMBLY AND ERECTION

Unless otherwise agreed in written form, assembly and erection shall be subject to the following provisions:

1. The Purchaser shall provide at its own expense and in due time:
   a) all earth and construction work and other ancillary work outside the Supplier's scope, including the necessary skilled and unskilled labor, construction materials and tools,
   b) the equipment and materials necessary for assembly and commissioning such as scaffolds, lifting equipment and other devices as well as fuels and lubricants,
   c) energy and water at the point of use including connections, heating and lighting,
   d) suitable dry and lockable rooms of sufficient size adjacent to the site for the storage of machine parts, apparatus, materials, tools, etc. and adequate working and recreation rooms for the erection personnel, including sanitary facilities as are appropriate in the specific circumstances; furthermore, the Purchaser shall take all measures it would take for the protection of its own possessions to protect the possessions of the Supplier and of the erection personnel at the site,
   e) protective clothing and protective devices needed due to particular conditions prevailing on the specific site.
2. Before the erection work starts, the Purchaser shall unsolicitedly make available any information required concerning the location of concealed electric power, gas and water lines or of similar installations as well as the necessary structural data.
3. Prior to assembly or erection, the materials and equipment necessary for the work to start must be available on the site of assembly or erection and any preparatory work must have advanced to such a degree that assembly or erection can be started as agreed and carried out without interruption. Access roads and the site of assembly or erection must be level and clear.

* **"Grüne Lieferbedingungen". The original German text shall be the governing version.**

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4. If assembly, erection or commissioning is delayed due to circumstances for which the Supplier is not responsible, the Purchaser shall bear the reasonable costs incurred for idle times and any additional traveling expenditure of the Supplier or the erection personnel.

5. The Purchaser shall attest to the hours worked by the erection personnel towards the Supplier at weekly intervals and the Purchaser shall immediately confirm in written form if assembly, erection or commissioning has been completed.

6. If, after completion, the Supplier demands acceptance of the Supplies, the Purchaser shall comply therewith within a period of two weeks. In default thereof, acceptance is deemed to have taken place. Acceptance is also deemed to have been effected if the Supplies are put to use, after completion of an agreed test phase, if any.

VII. RECEIVING SUPPLIES

The Purchaser shall not refuse to receive Supplies due to minor defects.

VIII. DEFECTS AS TO QUALITY

The Supplier shall be liable for defects as to quality ("Sachmängel", hereinafter referred to as "Defects",) as follows:

1. Defective parts or defective services shall be, at the Supplier's discretion, repaired, replaced or provided again free of charge, provided that the reason for the Defect had already existed at the time when the risk passed.

2. Claims for repair or replacement are subject to a statute of limitations of 12 months calculated from the start of the statutory statute of limitations; the same shall apply mutatis mutandis in the case of rescission and reduction. This shall not apply where longer periods are prescribed by law according to Sec. 438 para. 1 No. 2 (buildings and things used for a building), Sec. 479 para. 1 (right of recourse), and Sec. 634a para. 1 No. 2 (defects of a building) German Civil Code ("BGB"), in the case of intent, fraudulent concealment of the Defect or non-compliance with guaranteed characteristics (Beschaffenheitsgarantie). The legal provisions regarding suspension of the statute of limitations ("Ablaufhemmung", "Hemmung") and recommencement of limitation periods shall be unaffected.

3. Notifications of Defect by the Purchaser shall be given in written form without undue delay.

4. In the case of notification of a Defect, the Purchaser may withhold payments to an amount that is in a reasonable proportion to the Defect. The Purchaser, however, may withhold payments only if the subject-matter of the notification of the Defect involved is justified and incontestable. The Purchaser has no right to withhold payments to the extent that its claim of a Defect is time-barred. Unjustified notifications of Defect shall entitle the Supplier to demand reimbursement of its expenses by the Purchaser.

5. The Supplier shall be given the opportunity to repair or to replace the defective good ("Nacherfüllung") within a reasonable period of time.

6. If repair or replacement is unsuccessful, the Purchaser is entitled to rescind the contract or reduce the remuneration; any claims for damages the Purchaser may have according to No. 10 shall be unaffected.

7. There shall be no claims based on Defect in cases of insignificant deviations from the agreed quality, of only minor impairment of usability, of natural wear and tear, or damage arising after the passing of risk from faulty or negligent handling, excessive strain, unsuitable equipment, defective civil works, inappropriate foundation soil, or claims based on particular external influences not assumed under the contract, or from non-reproducible software errors. Claims based on defects attributable to improper modifications or repair work carried out by the Purchaser or third parties and the consequences thereof are likewise excluded.

8. The Purchaser shall have no claim with respect to expenses incurred in the course of supplementary performance, including costs of travel, transport, labor, and material, to the extent that expenses are increased because the subject-matter of the Supplies has subsequently been brought to another location than the Purchaser's branch office, unless doing so complies with the normal use of the Supplies.

9. The Purchaser's right of recourse against the Supplier pursuant to Sec. 478 BGB is limited to cases where the Purchaser has not concluded an agreement with its customers exceeding the scope of the statutory provisions governing claims based on Defects. Moreover, No. 8 above shall apply mutatis mutandis to the scope of the right of recourse the Purchaser has against the Supplier pursuant to Sec. 478 para. 2 BGB.

10. The Purchaser shall have no claim for damages based on Defects. This shall not apply to the extent that a Defect has been fraudulently concealed, the guaranteed characteristics are not complied with, in the case of loss of life, bodily injury or damage to health, restrictions to liberty and/or intentionally or grossly negligent breach of contract on the part of the Supplier. The above provisions do not imply a change in the burden of proof to the detriment of the Purchaser. Any other or additional claims of the Purchaser exceeding the claims provided for in this Article VIII, based on a Defect, are excluded.

IX. INDUSTRIAL PROPERTY RIGHTS AND COPYRIGHT; DEFECTS IN TITLE

1. Unless otherwise agreed, the Supplier shall provide the Supplies free from third parties' industrial property rights and copyrights (hereinafter referred to as "IPR") with respect to the country of the place of delivery only. If a third party asserts a justified claim against the Purchaser based on an infringement of an IPR by the Supplies made by the Supplier and used in conformity with the contract, the Supplier shall be liable to the Purchaser within the time period stipulated in Article VIII No. 2 as follows:

   a) The Supplier shall choose whether to acquire, at its own expense, the right to use the IPR with respect to the Supplies concerned or whether to modify the Supplies such that they no longer infringe the IPR or replace them. If this would be impossible for the Supplier under reasonable conditions, the Purchaser may rescind the contract or reduce the remuneration pursuant to the applicable statutory provisions.

   b) The Supplier's liability to pay damages is governed by Article XI.

   c) The above obligations of the Supplier shall apply only if the Purchaser (i) immediately notifies the Supplier of any such claim asserted by the third party in written form, (ii) does not concede the existence of an infringement and (iii) leaves any protective measures and settlement negotiations to the Supplier's discretion. If the Purchaser stops using the Supplies in order to reduce the damage or for other good reason, it shall be obliged to point out to the third party that no acknowledgement of the alleged infringement may be inferred from the fact that the use has been discontinued.

2. Claims of the Purchaser shall be excluded if it is responsible for the infringement of an IPR.

3. Claims of the Purchaser are also excluded if the infringement of the IPR is caused by specifications made by the Purchaser, by a type of use not foreseeable by the Supplier or by the Supplies being modified by the Purchaser or being used together with products not provided by the Supplier.

4. In addition, with respect to claims by the Purchaser pursuant to No. 1 a) above, Article VIII Nos. 4, 5, and 9 shall apply mutatis mutandis in the event of an infringement of an IPR.

5. Where other defects in title occur, Article VIII shall apply mutatis mutandis.

6. Any other claims of the Purchaser against the Supplier or its agents or any such claims exceeding the claims provided for in this Article IX, based on a defect in title, are excluded.

X. IMPOSSIBILITY OF PERFORMANCE; ADAPTATION OF CONTRACT

1. To the extent that delivery is impossible, the Purchaser is entitled to claim damages, unless the Supplier is not responsible for the impossibility. The Purchaser's claim for damages is, however, limited to an amount of 10 % of the value of the part of the Supplies which, owing to the impossibility, cannot be put to the intended use. This limitation shall not apply in the case of mandatory liability based on intent, gross negligence or loss of life, bodily injury or damage to health; this does not imply a change in the burden of proof to the detriment of the Purchaser. The Purchaser's right to rescind the contract shall be unaffected.

2. Where unforeseeable events within the meaning of Article IV No. 2 substantially change the economic importance or the contents of the Supplies or considerably affect the Supplier's business, the contract shall be adapted taking into account the principles of reasonableness and good faith. To the extent this is not justifiable for economic reasons, the Supplier shall have the right to rescind the contract. If the Supplier intends to exercise its right to rescind the contract, it shall notify the Purchaser thereof without undue delay after having realized the repercussions of the event; this shall also apply even where an extension of the delivery period has previously been agreed with the Purchaser.

XI. OTHER CLAIMS FOR DAMAGES; STATUTE OF LIMITATIONS

1. The Purchaser has no claim for damages based on whatever legal reason, including infringement of duties arising in connection with the contract or tort.

2. The above shall not apply in the case of mandatory liability, e. g. under the German Product Liability Act ("Produkthaftungsgesetz"), in the case of intent, gross negligence, loss of life, bodily injury or damage to health, or breach of a condition which goes to the root of the contract ("wesentliche Vertragspflichten"). However, claims for damages arising from a breach of a condition which goes to the root of the contract shall be limited to the foreseeable damage which is intrinsic to the contract, unless caused by intent or gross negligence or based on liability for loss of life, bodily injury or damage to health. The above provision does not imply a change in the burden of proof to the detriment of the Purchaser.

3. To the extent that the Purchaser has a claim for damages, it shall be time-barred upon expiration of the statute of limitations pursuant to Article VIII No. 2. The same shall apply to the Purchauser's claims in connection with actions undertaken to avoid any damage (e. g. callback). In the case of claims for damages under the German Product Liability Act, the statutory statute of limitations shall apply.

XII. VENUE AND APPLICABLE LAW

1. If the Purchaser is a businessman, sole venue for all disputes arising directly or indirectly out of the contract shall be the Supplier's place of business. However, the Supplier may also bring an action at the Purchaser's place of business.

2. Legal relations existing in connection with this contract shall be governed by German substantive law, to the exclusion of the United Nations Convention on contracts for the International Sale of Goods (CISG).

XIII. SEVERABILITY CLAUSE

The legal invalidity of one or more provisions of this Agreement in no way affects the validity of the remaining provisions. This shall not apply if it would be unreasonable for one of the parties to be obligated to continue the contract.

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