

# General Terms and Conditions of Purchasing and Ordering

For use in all contractual relationships between entrepreneurs, legal entities under public law and special funds under public law (hereinafter referred to as 'the Supplier') and Wittur Electric Drives GmbH (hereinafter referred to as 'the Buyer').

## 1. General conditions

- 1.1 The legal relationships between the Supplier and the Buyer shall be governed exclusively by the following Terms and Conditions of Purchasing.
- 1.2 No conflicting or divergent conditions shall be accepted.
- 1.3 The acceptance of goods or services without reservation (hereinafter uniformly referred to as 'goods' or 'supplied items') or unconditional payment by the Buyer in no way signifies acceptance of the General Terms and Conditions of the Supplier.
- 1.4 These Terms and Conditions of Purchasing shall also apply to any future business with the Supplier.

## 2. Subject of the offer and ordering

- 2.1 If the Buyer asks the Supplier to submit an offer, the Supplier must meet the specifications precisely in terms of quantity and characteristics, and expressly notify the Buyer if there are any deviations.
- 2.2 The offer must be submitted free of charge.
- 2.3 Delivery contracts (orders and acceptances) and requests for delivery must be in writing. Once agreed in writing, orders and requests for delivery can also be made in text form (fax or email).
- 2.4 Verbal agreements made after the contract has been concluded, in particular subsequent amendments and supplements to our Terms and Conditions of Purchasing, as well as subsidiary agreements, must be confirmed in writing by the Buyer.
- 2.5 The Buyer may ask for reasonable design and construction modifications to be made to the supplied items. The repercussions, especially with respect to price differences and changes in delivery deadlines, must be negotiated in a reasonable, amicable manner.
- 2.6 Changes to the object of the contract by the Supplier require the prior written consent of the Buyer.
- 2.7 If the Supplier does not accept the order within two weeks of the order date, the Buyer is entitled to cancel. Requests for delivery shall become binding no later than one week after receipt unless the Supplier objects in writing.

## 3. Prices, payment, insurance

- 3.1 Unless otherwise agreed, prices shall be for goods 'delivered duty paid' (DDP pursuant to Incoterms 2010), including packing but excluding VAT.
- 3.2 Unless otherwise agreed, the Buyer shall either pay within 14 days with a 3 % discount or pay the full price within 60 days from the date when the payment claim falls due and from receipt of both the invoice and the goods or rendering of the service. The payment shall be subject to subsequent review.
- 3.3 If goods delivered early are accepted, the due date for payment shall be based on the agreed payment deadline; in cases of doubt, it shall be no earlier than after the agreed delivery date.
- 3.4 Insurance for the goods in transit shall be purchased by the Buyer. Commissions paid by the Supplier shall not be reimbursed. As a customer which waives additional insurance within the meaning of Art. 39 of the General Terms of German Freight Forwarders, the Buyer shall pay no fees for SVS/RVS insurance.

## 4. Delivery and deadlines, late delivery, contractual penalties

- 4.1 The delivery deadlines and periods quoted in the order are binding. The factor used to determine whether the delivery deadline or period has been met is receipt of the goods at the place of use or fulfilment specified or agreed by the Buyer. In business relations with entrepreneurs, the place of fulfilment is the plant of the Buyer specified in the order, unless another plant is specifically named. If, in exceptional circumstances, the goods are not 'delivered duty paid' (DDP pursuant to Incoterms 2010), the Supplier must prepare the goods for despatch promptly, allowing the customary length of time for loading and despatch, and ship these deliveries at the lowest available cost, unless the Buyer has specified a different form of transportation in writing. In other respects, the Supplier shall negotiate with the Buyer's haulage contractor.
- 4.2 The Buyer is entitled to alter agreed delivery dates if this is required for the smooth running of the Buyer's company, provided this does not constitute an unreasonable imposition on the Supplier.
- 4.3 Partial deliveries and early deliveries are not permitted, unless the Buyer has expressly granted its approval. If the Supplier delivers goods early without the express consent of the Buyer, the Buyer shall be entitled to refuse to accept them and to return them or store them with a third party at the Supplier's expense and risk.
- 4.4 Accepting late delivery of goods or services without reservation does not imply that the Buyer is waiving the compensation claims to which it is consequently entitled; this shall apply until full payment has been made of the monies owed by the Buyer for the goods or services concerned.
- 4.5 If agreed deadlines fail to be met, statutory provisions shall apply. If the Supplier anticipates problems which might prevent him from meeting the deadline or supplying the agreed quality of goods, it must inform the Buyer immediately, stating the reasons. If a faster mode of transportation is required to meet the delivery deadline, the Supplier shall bear the additional cost.
- 4.6 The Buyer is also entitled to impose a contractual penalty of 0.5% for each commenced week of default, up to a maximum of 5 % of the total value of the order. The contractual penalty shall be offset against any compensation claims awarded as a result of failure to meet the deadline.
- 4.7 If the Supplier is responsible for installation or assembly, it shall meet all the necessary ancillary costs unless otherwise agreed.
- 4.8 The Supplier shall bear the risk until acceptance by the Buyer or its representative at the place to which the goods are to be delivered as per the contract.
- 4.9 The Supplier guarantees that outgoing goods will be examined thoroughly to ensure zero-defect delivery. They are accepted with the proviso that they will be examined for defects, in particular to ensure that they are accurate, complete and fit for purpose. The Buyer is entitled to inspect the supplied items to the extent and as soon as this is possible in the ordinary course of business. It shall notify the Supplier immediately of any defects it discovers. To this extent, the Supplier waives the objection of late notification of defects.
- 4.10 Unless other evidence is provided, the numbers of items, weights and dimensions ascertained by the Buyer during the incoming goods inspection shall be authoritative.
- 4.11 The Buyer has the right to use software included in the scope of delivery and its documentation, with the agreed performance characteristics, in accordance with the contractually agreed use of the product. It may also create a back-up copy without express consent having to be granted.
- 4.12 Deliveries of goods shall only be accepted at the Buyer's plant from Monday to Thursday between 7 am and 5 pm, or on Friday between 7 am and 4 pm.

## 5. Confidentiality

- 5.1 No information made available by the Buyer (including characteristics which can be obtained from items, documents or software to which the Supplier has been given access, as well as other knowledge or experience) may be divulged to third parties for as long as and inasmuch as it cannot be shown to be generally known. It shall remain the exclusive property of the Buyer, and may only be divulged to individuals at the Supplier's company on a need-to-know basis for the purpose of effecting the delivery to the Buyer; such persons are in turn obliged to observe confidentiality. Information of this kind may not be copied or used commercially apart from in connection with deliveries to the Buyer itself, except with the latter's prior written consent. At the Buyer's request, all information originating with its company, including copies, recordings and loaned items, must be returned or disposed of immediately and completely, and a suitable written declaration made to this effect at the time.
- 5.2 The Buyer retains all rights to such information (including copyright and the entitlement to apply for industrial property rights). If the Buyer has received such information from third parties, this proviso shall also apply vis-à-vis these third parties.
- 5.3 Items made on the basis of documents drafted by the Buyer, such as drawings, models, etc., or on the basis of its confidential information or with its tools or copies thereof, may neither be used by the Supplier itself, nor offered or supplied to third parties. This shall also apply mutatis mutandis to print jobs.
- 5.4 The obligation to observe confidentiality shall survive the termination of the contract. It shall expire only when confidential information becomes generally known without the Supplier having been in breach of the confidentiality commitment.
- 5.5 The Supplier shall impose a corresponding obligation on sub-suppliers.

## 6. Inventions, industrial property rights

- 6.1 The Supplier hereby grants WITTUR Electric Drives GmbH free, transferrable rights of use for an unlimited period to patentable inventions arising from the legal relationship between the Supplier and the Buyer, in particular where development services are provided. The Supplier shall ensure that it can meet its obligation of utilisation and transfer as far as organisational matters are concerned.
- 6.2 The Supplier is aware that the Buyer's products are used worldwide. It gives its assurance that it informed the Buyer before the contract was awarded of the use of published and unpublished industrial rights and industrial rights applications owned or licensed by its company, in respect of the supplied items.
- 6.3 If claims are made against the Buyer because of a breach of an industrial right pursuant to clauses 6.1 or 6.2, the Supplier shall intervene in the dispute and bear all the costs.
- 6.4 Should there be a breach of third-party rights, the Buyer shall be entitled to compensation from the Supplier for the loss or damage arising therefrom, regardless of its level of culpability in the matter. The Buyer shall be entitled to obtain a permit from the rights holder at the Supplier's expense to use the goods or services concerned.

## 7. Packaging, delivery note, invoice, origin of goods

- 7.1 Unless it is supplied on loan, the packaging is to be charged at its documented cost price and itemised separately in the offer and invoice. At the Buyer's request, the Supplier must remove the packaging at its own expense unless otherwise agreed in an individual case.
- 7.2 The Buyer must be issued with a delivery note and a separate invoice for each consignment. Duplicates must be marked as such. The invoice must contain at least the following information: supplier number, date and number of order and/or request for delivery and purchase agreement, quantity and material number, number and date of delivery note, gross and net weight (stated individually), additional Buyer data (e.g. unloading point) and agreed price/unit. The goods must be delivered in accordance with our general delivery specifications (Rev. 12/2011).
- 7.3 If the invoice relates to more than one order, the information pursuant to clause 7.2 is to be itemised for each order. The invoice may only refer to the delivery note.
- 7.4 If the Supplier neglects to supply the minimum information required, it shall be held accountable for any resulting consequences, including administration and payment delays, unless it can demonstrate that it was not responsible for these consequences.
- 7.5 A supplier resident in the EU must document the country of origin of the goods to the Buyer by means of a long-term supplier declaration; a supplier not resident in the EU must produce a preference certificate or certificate of origin. The Buyer must be informed automatically and without delay if the country of origin changes. The Supplier shall indemnify the Buyer against any costs arising from its use of inaccurate, incomplete or erroneous information or documents of origin.

## 8. Force majeure

- 8.1 In the case of force majeure, industrial disputes, operational disruptions arising through no fault of its own, unrest, official measures or other unavoidable incidents, the Buyer shall be entitled – notwithstanding its other rights – to withdraw from the contract in whole or in part, if as a consequence there is a serious reduction in its requirements and the situation persists for an extended period.

## 9. Warranty, liability

- 9.1 Unless otherwise specified below, the legal provisions governing material defects and defects of title shall apply. The warranty shall extend to the delivery of goods and services of the Supplier's sub-suppliers; the Buyer shall be entitled to all claims under warranty in full.
- 9.2 If a material defect appears within six months of the transfer of risk, it shall be assumed that it already existed at the time risk was transferred, unless this is inconsistent with the nature of the goods or of the defect.
- 9.3 The Buyer may choose the type of subsequent performance. The Supplier has the right to refuse to comply pursuant to Art. 439 Para. 3 of the German Civil Code.
- 9.4 If the Supplier fails to begin remedying the defect immediately it is requested to do so, the Buyer may, at the Supplier's expense, effect the remedy itself or arrange for a third party to do so in exigent circumstances, especially if this will avert imminent danger or prevent more serious damage being done.
- 9.5 The warranty period shall expire 24 months after final commissioning by the end customer, but no later than 36 months after delivery to the Buyer.
- 9.6 In the case of defects of title, the Supplier shall also indemnify the Buyer and its customers against third-party claims. A period of limitation of ten years applies in the case of defects of title.
- 9.7 If parts of the delivery are repaired within the period of limitation, this period shall be interrupted until such time as the Supplier has completely fulfilled the claims for subsequent performance.

# Allgemeine Einkaufs- und Bestellbedingungen

Zur Verwendung in allen Vertragsbeziehungen zwischen Unternehmern, juristischen Personen des öffentlichen Rechts und öffentlich-rechtlichen Sondervermögen (nachfolgend "Lieferant") und der WITTUR Electric Drives GmbH (nachfolgend "Käufer").

- 9.8 The Buyer's expenses resulting from defective delivery of the object of the contract, in particular transportation, infrastructure, work and material costs or the costs for a more scrupulous inspection of incoming goods than is normally required, shall be borne by the Supplier, which shall also be responsible for costs borne by the Buyer on behalf of its customers, especially if the Supplier is responsible for a breach of a contractual duty in the form of failure to deliver.
- 9.9 If a product which it has manufactured and/or sold is returned to the Buyer because the object of the contract delivered by the Supplier is defective, or if the purchase price paid to the Buyer is reduced or a claim is made in another way as a result, it reserves the right to seek redress from the Supplier; no time-limit shall apply as would normally be required for rights relating to defects.
- 10. Other liability**- 10.1 In the case of product liability claims against the Buyer, the Supplier shall indemnify the Buyer inasmuch as and to the extent to which the damage was caused by a defect in the goods delivered by the Supplier. However, in the case of fault-based liability, this shall only apply if the Supplier is at fault. If the cause of the damage lies in the area of responsibility of the Supplier, the burden of proof shall be borne by the latter. In such cases, the Supplier shall bear all the costs and expenses, including the costs of any prosecution or recall campaign.
- 10.2 The Supplier undertakes to contract public liability insurance and product liability insurance with an insurer licensed to operate in the EU, which includes cover for product-related damage and recall expenses. Cover of up to € 2 million per occurrence must be provided for each of the areas of personal injury and property damage, and product-related damage and recall expenses.
- 10.3 If the Supplier becomes aware of accidents or other events of significance to the product safety of the supplied goods, it must inform the Buyer accordingly at once, and forward any related documents in its possession to the latter.
- 11. Assignment of claims**- 11.1 The Buyer may withhold payment or declare set-off in the case of counterclaims.
- 12. Title**- 12.1 The Supplier may only enforce retention of title rights if these are the subject of a separate explicit agreement. No extended or expanded retention of title shall be deemed to have been agreed.
- 12.2 The Buyer retains all proprietary rights and copyright relating to its illustrations, drawings, models, templates, calculations and other documents and information. The Supplier may only use the above documents and information for the purpose of manufacturing the object of the contract in accordance with the Buyer's order. They shall be kept by the Supplier on behalf of the Buyer and must be returned automatically to the Buyer once the contract has been fulfilled.
- 12.3 The Buyer shall retain title in all items it provides to the Supplier. Any processing or reconfiguring by the Supplier shall proceed on behalf of the Buyer. If the property of the Buyer is processed with the goods of others, the Buyer shall acquire co-ownership of the new product in the proportion of the value of the Buyer's own property (purchase price plus VAT) to that of the other items processed at the time of processing.
- 12.4 If an item provided by the Buyer is mixed with the items of others, the Buyer shall acquire co-ownership of the new product in the proportion of the value of the Buyer's own property (purchase price plus VAT) to that of the items with which it is mixed at the time of mixing. If mixing takes place in such a way that the Supplier's item is to be regarded as the main item, it is agreed that the Supplier shall transfer a proportional share in ownership to the Buyer. The Supplier shall keep the sole title or co-title on behalf of the Buyer.
- 12.5 The Buyer shall retain all rights, in particular title, to all tools, moulds and other manufacturing equipment which it makes available to the Supplier for the purpose of fulfilling the contract. They may only be used for the purpose of manufacturing in accordance with the Buyer's order. They shall be kept by the Supplier on behalf of the Buyer and must be returned to the Buyer once the contract has been fulfilled.
- 12.6 Tools, moulds and other manufacturing equipment made by the Supplier itself to complete an order and which are invoiced separately to the Buyer in full shall become the property of the Buyer at the time of their manufacture. If only part of the cost is invoiced, the Buyer shall acquire only pro rata ownership; the Buyer is entitled at any time to demand complete transfer of ownership concurrently with payment of the outstanding cost. The tools, moulds and other manufacturing equipment shall initially be kept on behalf of the Buyer and may only be used to complete the Buyer's order. Tools, moulds and other manufacturing equipment owned by the Buyer must be supplied to the Buyer immediately at the latter's request after completion of the contract or if the contract is terminated prematurely. If the Buyer only has co-ownership of the tools, moulds or other manufacturing equipment, this shall apply only if it acquires sole ownership concurrently with payment of the outstanding cost.
- 12.7 The Supplier must undertake to provide adequate insurance against fire and water damage and theft at its own expense for the tools, moulds and other manufacturing equipment referred to in clauses 12.5 and 12.6. The Supplier hereby assigns all claims arising from this insurance to the Buyer, and the Buyer hereby accepts the assignment. The Supplier must conduct servicing, inspection, maintenance and repair work when it is due and at its own expense. The Supplier must give notification of any damage or breakdowns at once. The Supplier must hand over goods whose return is requested in a due and proper condition. These provisions shall supplement those concluded in any tool rental agreement.
- 13. Quality and documentation**- 13.1 The Supplier must use state-of-the-art scientific and technical methods and comply with safety regulations and the agreed technical specifications in respect of the goods it supplies. It must establish suitable quality management procedures and be able to demonstrate this accordingly.
- 13.2 The Supplier must conduct an ongoing quality inspection of the items it supplies. The parties to the contract shall discuss possible ways of improving quality with one another. The Supplier shall also cooperate with the Buyer and with the Buyer's customers and suppliers within reason as regards value analyses, value engineering and other ongoing programmes aimed at improving product quality.

- 13.3 In its quality documentation for all products, the Supplier must record when, how and by whom defect-free production was ensured. These records must be kept for 15 years and submitted to the Buyer for scrutiny upon request. The Supplier may reduce this period if it can exclude the possibility that use of the products may be hazardous to life or health. The Supplier must impose the same obligation on its own suppliers to the extent permitted under the law.
- 13.4 If the Buyer has concluded a separate agreement with the Supplier regarding quality assurance, then this shall substitute for clauses 13.1 to 13.3.
- 13.5 The Supplier is aware that WITTUR's products are used worldwide. Consequently, the documentation and technical data sheets it produces are to be written in at least German and English.
- 14. Safety and environmental protection**- 14.1 Packaging must be designed in such a way that it is easy to separate and can be recycled, mixed containers are avoided, and materials from natural renewable raw materials are used. The corresponding product and material information is to be supplied.
- 14.2 The Buyer shall only accept hazardous materials if upon delivery the Supplier produces a safety data sheet which complies with the relevant legislation (e.g. the Regulation on the Carriage of Dangerous Goods by Road and Rail and the Recycling and Waste Management Act).
- 14.3 Persons working on the Buyer's premises for the purpose of fulfilling the contract must observe the applicable factory regulations. Such persons must also attend a safety briefing by the Buyer's representative and sign the records in confirmation of this. If several individuals are present on the Supplier's side, the Buyer must be given the name of a contact person who is responsible for ensuring that the safety regulations are observed. No liability shall be accepted for accidents which occur to such persons on works premises unless they were caused as a result of an intentional or grossly negligent breach of duty on the part of the legal representative or vicarious agent of the Buyer.
- 14.4 If there are grounds for assuming that the delivery of goods or services does not comply with applicable safety requirements or even that the intended use of the delivery or service might be extremely hazardous, the Buyer may demand an itemised report on compliance with the provisions relating to equipment safety law. If the Supplier cannot produce this report at all or by a reasonable deadline, the Buyer shall be entitled to withdraw from the contract.
- 15. Final provisions**- 15.1 Dresden shall be the exclusive legal venue for all disputes arising directly or indirectly from contractual relationships which exist on the basis of these Terms and Conditions of Purchasing. The Buyer is further entitled to bring a lawsuit against the Supplier at the court in whose jurisdiction its headquarters, its branch or its place of fulfilment are situated, at its own discretion.
- 15.2 Contractual relationships shall be governed exclusively by German law, with the exclusion of the conflict of laws provisions and the UN Convention on Contracts for the International Sale of Goods (CISG).
- 15.3 If one of the parties to the contract ceases payment, or if insolvency proceedings are initiated against its assets or an application is made for judicial or extra-judicial composition proceedings, the other party shall be entitled to withdraw from the part of the contract which remains to be fulfilled.
- 15.4 If one of the provisions of these Terms and Conditions of Purchasing or of the other agreements which are concluded is or becomes ineffective, this shall not affect the validity of the remaining Terms and Conditions of Purchasing. The parties to the contract must undertake to substitute the ineffective provision with one whose commercial intent approximates as closely as possible to it.

N.B.:

In accordance with the Federal Data Protection Act, the Buyer hereby declares that it has stored data belonging to the Supplier and shall process this data further.