

# General Terms and Conditions of Purchase

of

**ILFA Industrieelektronik und Leiterplattenfertigung aller Art GmbH,**

Hannover

## § 1 General, Application

(1) These general terms and conditions of purchase (hereinafter „T&C's“) shall apply for all business relations with our suppliers and service providers (hereinafter „Sellers“, each a “Seller”). The T&C's shall only apply if Seller is an entrepreneur within the meaning of Section 14 German Civil Code, a legal entity under public law or a special fund under public law within the meaning of section 310 para 1 German Civil Code.

(2) These T&C's shall in particular apply for agreements for the purchase and/or delivery of movable assets (hereinafter „Goods“), regardless of whether Seller has produced the Goods by himself or has purchased them from suppliers (sections 433, 651 German Civil Code). The T&C's, as amended from time to time, shall apply as a framework agreement also for future agreements regarding the sale and purchase and/or the delivery of Goods from the same Seller without us being obliged to advise Seller of their application in every individual case. We will inform Seller about amendments to our T&C's without undue delay.

(3) These T&C's shall apply exclusively. Differing or contrary or supplementary general terms and conditions of Seller shall only become part of the agreement if and to the extent we have explicitly approved of their application in writing. This consent requirement shall apply in any event, for example also even if we have accepted delivery from Seller without reservation, having knowledge of its general terms and conditions.

(4) Individual agreements with Seller (including ancillary agreements, supplements or amendments), concluded in an individual case shall prevail over these T&C's. A written agreement respectively our written confirmation shall be decisive for the content of such individual agreements.

(5) Legally relevant statements and notifications to be made by Seller vis-à-vis us after formation of contract (e.g. deadlines, reminders and revocation) require the written form to be valid.

(6) References to the application of statutory provisions are only made for clarification purposes. Even without such clarification the statutory provisions shall apply if and to the extent they are not directly amended or excluded by these T&C's.

## § 2 Formation of Contract

(1) Our order shall be binding at the earliest when made in writing or upon order confirmation. For the purpose of correction or completion, Seller shall be obliged to inform us about evident errors (such as writing or calculation errors) and incompleteness of the order, including the order documentation; otherwise, there shall be no formation of contract.

(2) Seller shall confirm our order in writing within a period of 1 week or fulfill it in particular by shipping the ordered Goods without reservation (acceptance). A late acceptance shall be deemed as a new offer and requires acceptance by us.

## § 3 Delivery Time and Default

(1) The delivery date(s) stated in the order shall be binding. Seller shall be obliged to inform us in writing without undue delay, if Seller is presumably not in the position to deliver in time, for what reason whatsoever.

(2) If Seller does not perform at all or not within the agreed delivery time or if Seller is otherwise in default, we shall have the rights under statutory law, including, without limitation, revocation and damages. Paragraph 3 shall remain unaffected hereby.



(3) If Seller is in default, we have - in addition to further rights under statutory law - the right to claim liquidated damages for default in the amount of 1% of the net price per completed calendar week, limited to an overall amount of 5% of the net price of the delayed Goods. We reserve the right to prove that the actual damage is higher. Seller shall have the right to prove that we have no or a substantially lower damage only.

(4) An acceptance of late delivery without reservation shall not be deemed a waiver of our rights for late delivery.

## § 4 Performance, Shipment, Passing of Risk, Default of Acceptance

(1) Without our prior written consent, Seller shall not be entitled to performance (*Leistung*) by a third party (e.g. subcontractor). Seller bears the sourcing risk for his performance, unless otherwise agreed in the individual case (e.g. sale of Goods in stock).

(2) If not explicitly agreed otherwise in writing, delivery shall be made DDP to our premises in Hannover, Germany, which shall also be deemed the place of performance (*Bringschuld*).

(3) The delivery shall be accompanied by a delivery note (*Lieferschein*), containing in particular the date (of shipping note and dispatch), content (item number and quantity) and our order details (date and number). In case the delivery note is missing or incomplete, we shall not be responsible for any delays in processing and payment resulting therefrom. Separate from the delivery note, Seller shall send us the corresponding shipping note (*Versandanzeige*) with the same content.

(4) The risk of accidental loss or damage to the Goods shall pass to us upon handing over at the place of performance. In case acceptance is agreed, acceptance shall be decisive for the passing of risk. Otherwise, in case of acceptance the statutory provisions for an agreement for work and services (*Werkvertrag*) shall apply. Handover or acceptance is deemed to have occurred if we are in default with acceptance (*Annahmeverzug*).

(5) For the occurrence of a default of acceptance the statutory provisions shall apply. Seller is obliged to offer its performance explicitly, even if a specific date (fixed or determinable) has been agreed for a certain action or cooperation from our end (e.g. supply of material). In case we are in default of acceptance, Seller shall be entitled to claim additional expenses under statutory law (section 304 German Civil Code). If the relevant Good is (to be) custom made by Seller, Seller shall only be entitled to further rights, if we obliged ourselves to cooperate and are responsible for the lack of cooperation.

## § 5 Prices and Payment Terms

(1) The prices shown in our order are binding. All prices include VAT, unless explicitly stated separately.

(2) Unless agreed otherwise in the individual case, the price shall include all performances and ancillary services (e.g. assembly, installation) and all ancillary costs (e.g. proper packaging, costs of transportation including transport and liability insurance, if any). If requested by us, Seller shall take back the packaging material.

(3) Unless explicitly agreed otherwise, the agreed price shall be due and payable within 60 calendar days from complete delivery and performance (including acceptance, if agreed) and receipt of a correct invoice. If we pay within 14 calendar days from delivery and receipt of the invoice, Seller shall grant us a 2% discount on the net amount of the invoice, unless explicitly agreed otherwise in writing. In case of bank transfer the payment shall be deemed made in time, if our order for payment is received by the bank prior to lapse of the payment period; we shall not be responsible for delays by the banks involved in the money transfer.

(4) We do not owe maturity interests (*Fälligkeitszinsen*). Default interest shall be 5 percentage points above base rate. Statutory law shall be decisive for our late payment (*Zahlungsverzug*), it being understood that in deviation therefrom a written warning by Seller shall be necessary in any case.

(5) We reserve all rights to offset or retain payment under statutory law. We shall in particular be entitled to retain due payments, as long as we have claims against Seller resulting from incomplete or defective performance and/or delivery.

(6) Seller shall only be entitled to offset or retain payment with binding or uncontested counterclaims.



## § 6 Confidentiality and Retention of Title

(1) We reserve ownership and copyrights of all illustrations, plans, drawings, calculations, application orders, product descriptions and other documents we provide to Seller (hereinafter collectively „Provided Documents“). The Provided Documents shall only be used for the purpose of performance of this agreement and have to be returned after completion thereof. The Provided Documents shall be kept confidential vis-à-vis third parties, also after completion of the agreement. The confidentiality obligation shall only lapse if and to the extent the knowledge contained in the Provided Documents becomes part of the public domain.

(2) The foregoing shall apply analogously for stock and material (e.g. software, finished and half finished products) as well as tools, samples and other items provided to Seller for production purposes (hereinafter collectively “Supplied Material”). Supplied Material, if not processed, shall be kept separately and be insured against loss or damage at Seller’s costs.

(3) Any processing, amalgamation or combination (*Weiterverarbeitung*) of Supplied Material by Seller shall be made for us. The same shall apply for processing of the Goods by us, so that we are deemed producer (*Hersteller*) and obtain title to the Goods at the latest with processing.

(4) Transfer of title to the Goods to us shall be made unconditional and irrespective of payment. If, in the individual case, we accept an offer by Seller to transfer title conditional upon payment of the delivered Goods, retention of title shall lapse at the latest with payment of the purchase price for the delivered Goods. We remain entitled to resell the Goods in the ordinary course of business also before payment of the purchase price upon transfer of the claim resulting therefrom (alternatively application of a simple and prolonged retention of title upon resale (*auf den Weiterverkauf verlängerter Eigentumsvorbehalt*)). Any other forms of a retention of title are explicitly excluded, in particular the extended (*erweitert*), forwarded (*weitergeleitet*) and prolonged upon processing retention of title (*auf die Weiterverarbeitung verlängerter Eigentumsvorbehalt*).

## § 7 Liability, Warranty

(1) Our rights with respect to defects of quality and/or title (including, without limitation, wrong delivery, short delivery and incorrect assembly, incorrect instructions for assembly and / or manual) and other breaches of duty by Seller shall be governed by statutory law, unless explicitly set forth otherwise hereinafter.

(2) Seller shall in particular be liable for the compliance of the Goods with the agreed quality as at acceptance, in line with statutory provisions. Any description of the Goods that forms part of the agreement, in particular by description or reference in our order, or by incorporation into the agreement in the same manner as these T&Cs, shall be deemed an agreement on the quality of the Goods, regardless whether such description was provided by us, Seller, or producer.

(3) In deviation from sec. 442 para. 1 sentence 2 German Civil Code we shall have unrestricted warranty claims even if we failed to obtain knowledge of a defect at formation of the agreement due to gross negligence.

(4) The statutory commercial inspection and objection obligations (sections 377, 381 German Commercial Code) shall apply with the following proviso: our inspection obligations shall be limited to defects that are apparent upon outward inspection of the Goods including shipping documents (e.g. transportation damages, wrong delivery and short delivery) or those that are detected during our quality control in a sampling procedure; otherwise, it shall be decisive whether under the specific circumstances of the individual case an inspection would be appropriate in the ordinary course of business. Our objection obligation for defects that are detected at a later point in time shall remain unaffected hereby. In any event shall our objection be deemed made without undue delay and in time, if it is received by Seller within 5 calendar days after detection of the defect.

(5) Costs and expenses incurred by Seller for the purposes of inspection and remedy (including, without limitation, possible costs of assembly and disassembly) shall be borne by Seller even if it turns out that there was no defect. Our obligation to pay damages in case of unjustified requests for the remediation of damages shall remain unaffected hereby; insofar, we shall only be liable if we had knowledge of the absence of a defect or lack of such knowledge due to gross negligence.

(6) In case Seller does not fulfill its obligation to supplementary performance, at our choice by rectification of the defect (*Nachbesserung*) or delivery of Goods free from defects (*Ersatzlieferung*) within a reasonable period of time set by us, we shall be entitled to rectify the defect ourselves and claim compensation of the necessary expenses therefor from Seller or claim an appropriate advance payment. In case rectification by Seller has failed or is not possible, or unreasonable (*unzumutbar*) for us (e.g. due to urgency, danger for occupational safety or imminent occurrence of a



disproportional damage), no deadline needs to be set by us; in such case we shall inform Seller about such circumstances without undue delay, if possible in advance.

(7) In addition, we shall be entitled to a purchase price reduction or to revoke the agreement in line with statutory provisions in case of a defect in title or quality. In addition, we shall be entitled to compensation of damages, costs and expenses in line with statutory provisions.

## § 8 Supplier Recourse

(1) Our statutory rights for recourse within the delivery chain (supplier recourse, sections 478, 479 German Civil Code) shall apply without limitation in addition to all rights with respect to defects we are entitled to. In particular, we are entitled to choose the form of supplementary performance (repair or delivery of Goods free from defects) which we owe to our customer in the individual case. Our statutory right of choice (section 439 para 1 German Civil Code) shall remain unaffected.

(2) Before we acknowledge or fulfill a claim for liability for defects (including, without limitation, recovery of costs and expenses pursuant to sections 478 para 3, 439 para 2 German Civil Code) we will inform Seller, describing the circumstances, asking for a written statement. In case no statement is made by Seller within a reasonable period of time and absent a mutual agreement (with the burden of proof lying with Seller), Seller shall be obliged to provide the recourse we actually provide to our customer.

(3) Our claims for supplier recourse shall also apply, if, before sale to a consumer, the Goods have been processed by us or one of our customers, e.g. by integration into another product.

## § 9 Indemnities

(1) If Seller is responsible for a product defect, Seller shall indemnify us and hold us harmless for any third party claims, if and to the extent caused within Seller's own domain and organization and if Seller is liable to the outside world.

(2) As part of the indemnification, Seller shall compensate us for our expenses pursuant to sections 683, 670 German Civil Code that were made in connection with the third party claims, including, without limitation, recalls made by us. To the extent possible and reasonable, we will inform Seller about the content and scope of our recall campaign, giving Seller the opportunity to comment. Further statutory claims remain unaffected.

(3) Seller shall take out and maintain product liability insurance with a minimum insurance amount of €1.5 million for each single occurrence of personal and property damage. Further damage claims shall remain unaffected hereby.

(4) Seller is obliged to comply with its obligations under the German Minimum Wage Act as applicable from time to time. Seller shall indemnify us and hold us harmless from claims of its workers under the German Minimum Wage Act. The indemnity obligation shall also apply in case of workers of a subcontractor of Seller asserting claims against us under the German Minimum Wage Act.

(5) Seller warrants that the Goods do not infringe intellectual property rights of third parties. In case third party claims are asserted against us in that regard, Seller shall indemnify us and hold us harmless from such claims upon first written demand. This indemnity obligation also applies for all necessary costs and expenses we incur in connection therewith.

## § 10 Information for external suppliers

(1) The supplier shall maintain a quality management system which at least meets the requirements of DIN EN ISO 9001 and shall manufacture and test the products in accordance with the rules of this quality management system.

(2) The Supplier shall be obliged to keep records of the performance of its quality assurance measures, in particular of measured values and test results, and to keep these records as well as any samples of the products in a clearly arranged manner. The Supplier shall be obliged to allow the Purchaser to inspect the records to the extent necessary and to hand over copies of the records and any samples. The type, scope and retention periods of these records and samples shall be carried out in accordance with the statutory requirements.



- (3) If the supplier obtains production or testing equipment, software, services, materials or other preliminary supplies from preliminary suppliers for the manufacture or quality assurance of the products, it shall be obliged to contractually include these in its quality management system or to ensure the quality of the preliminary supplies itself.
- (4) ILFA GmbH reserves the right to conduct an audit at the supplier's premises in accordance with DIN EN9100 in cooperation with the end customer, authorities or the Federal Aviation Authority in order to ensure that all required quality requirements are met.
- (5) The supplier must ensure that counterfeit parts (unauthorized copies, imitations, a replacement or modified part that is knowingly misrepresented as an original part) are identified and removed from circulation.
- (6) At this point, the Purchaser clarifies its responsibility to comply with social, environmental and ethical standards, which are based on the principles of sustainability. In addition to this responsibility, the supplier should also be concerned with respecting the balance between economic growth, environmental protection and the responsible use of resources.
- (7) Ensure that all employees are aware of their contribution to product/service conformity, product safety and the importance of ethical behavior.

## § 11 Statute of Limitations

- (1) The mutual claims of the parties hereto shall be time barred in accordance with the statutory provisions, unless explicitly set forth otherwise hereinafter.
- (2) In deviation from section 438 para 1 number 3 German Civil Code, the general statute of limitation for defects shall be 3 years from passing of risk. In case acceptance is agreed, the limitation period shall start with acceptance. The three-year period shall apply analogously for claims for defects of title, with the statutory statute of limitations for (in rem) claims for restitution by third parties pursuant to section 438 para 1 number 1 German Civil Code shall remain unaffected; furthermore, claims for defects in title shall not be time barred as long as the third party can assert a claim against us (e.g. if not time-barred) The statutes of limitation under the law for sale and purchase (*Kaufrecht*) including the aforementioned prolongation shall, in the statutory scope, apply for all contractual rights for defects. In case we have non-contractual right for defects, the regular statutory statute of limitation (sections 195, 199 German Civil Code) shall apply, if the application of statute of limitations under the law for sale and purchase leads to a longer statute of limitation in the individual case.
- (3) The limitation periods of the law on sales including the above extension shall apply - to the statutory extent to all contractual claims for defects. Insofar as we are also entitled to non-contractual claims for damages due to a defect, the regular statutory limitation period shall apply (§§ 195, 199 BGB), unless the application of the limitation periods of the law on sales leads to a longer limitation period in individual cases.

## § 12 Governing Law, Venue

- (1) These T&C's and all legal relations between us and Seller shall be governed by the right of the Federal Republic of Germany, excluding international uniform law, in particular the Convention on Contracts for the International Sale of Goods (UNCISG). Prerequisites and effects of retention of title shall be governed by the law governing the whereabouts of the Goods, if and to the extent the choice of German law is prohibited or invalid.
- (2) In case Seller is a businessman within the meaning of the German Commercial Code, a legal entity under public law or a special fund under public law, exclusive and also international venue for all disputes arising from the contractual relationship shall be Hannover, Germany. We remain entitled to file a claim at the place of performance.

