

Disclaimer for this translation:

The official version of the Hesse GmbH Terms and Conditions of Ordering is the German version (“Bestellbedingungen der Hesse GmbH”). This document is a mere translation of Hesse GmbH’s Terms and Conditions of Ordering. Hesse GmbH takes no responsibility for any errors or omissions in this translation. Hesse GmbH also gives no warranty, express or implied, as to the accuracy, completeness or reliability of the translation. In case of conflict or discrepancy between this translation and the German version, the German version always has priority and shall prevail.

Hesse GmbH Terms and Conditions of Ordering

As of: March 2014

I. General, Scope of Application, Exclusivity

1. These terms and conditions of ordering apply for all business relations of Hesse GmbH (hereinafter “Purchaser”), with their business partners and Suppliers (hereinafter “Supplier”). The terms and conditions of ordering only apply if the Supplier is a business owner (§ 14 BGB), a legal entity under public law or a special asset body under public law. The terms and conditions of ordering apply especially for any contract on the sale or the delivery of movable goods and products (hereinafter “goods”) regardless of whether the Supplier produces the goods himself or buys them from a sub-supplier (§§ 433, 651 BGB).

2. The terms and conditions of ordering furthermore apply as a framework agreement for future contracts for the sale or delivery of movable goods or the provision of other services with the same Supplier, without the Purchaser having to refer to it again in each individual case.

3. These terms and conditions of ordering apply exclusively. Diverging, adverse or additional terms and conditions of the Supplier shall only be considered part of the contract if the Purchaser has expressly stated his consent hereto. This requirement of consent applies in any event, even if the Purchaser, being aware of the Supplier’s general terms and conditions, accepts goods or services without reservation.

4. Legally relevant declarations and notifications that have to be given by the Supplier to the Purchaser after conclusion of the contract (e.g. the setting of a deadline, a reminder, a declaration of rescission) are required to be in writing in order to be effective.

5. References to the validity of statutory regulations shall only have clarifying significance. Even without such a clarification, the statutory regulations apply, insofar as these terms and conditions of ordering do not directly change or explicitly exclude them.

II. Ordering and Order Confirmation

The Supplier is obliged to confirm an order within 5 working days of receipt in writing (order confirmation). Before accepting any purchase order the Supplier must point out obvious mistakes (e.g. misspellings or calculation errors) and any incompleteness in the purchase order including the purchase order documents, to give the Purchaser opportunity to correct

his errors or complete the documents; the contract shall otherwise be regarded as not concluded. Delayed acceptance (order confirmation) or acceptance with additions, limitations or other amendments is considered to be a new offer and must be confirmed by the Purchaser.

III. Rights of Use for the Acquisition of Software

1. The Supplier transfers to the Purchaser the non-exclusive, in accordance with this agreement transferable, worldwide and temporally limited rights of use, as laid out in a separate agreement, for the software and the respective documentation (hereinafter "software") delivered to the Purchaser by the Supplier.

2. The transfer of the rights of use comprises all known types of use, especially the duplication, alteration, editing and distribution.

3. The Purchaser is entitled to sublicense the rights of use to affiliated enterprises in the sense of §15 AktG and to end customers as well as in accordance with separate agreements with other distributors.

4. The Purchaser acquires the right to grant the right to sublicense rights of use to end customers according to points 1 and 2 to affiliated enterprises in the sense of § 15 AktG and - in accordance with separate agreements - to other distributors, .

5. For the representational granting of rights of use the Supplier receives an appropriate remuneration in accordance with a separate agreement.

6. All sublicenses granted by the Purchaser must contain appropriate protection for the intellectual property rights of the Supplier in the software, by using the same contractual provisions used by the Purchaser to protect its own intellectual property rights.

IV. Performance Time, Contractual Penalty in case of impairment of performance

1. To determine whether a delivery, performance or supplementary performance is made on time, the receipt of goods at the specified delivery address is decisive. If deliveries include installation or assembly the crucial point of time is their acceptability (this is the time when installation or assembly is completed and the delivery is ready to be accepted by the Purchaser).

2. Deliveries or performances prior to the agreed delivery or performance date are only permissible if the Purchaser expressly consents thereto previously.

3. The Purchaser shall be advised immediately and asked for a decision if a delay in delivery or performance or supplementary performance is foreseeable.

4. If the Supplier falls into arrears with the delivery or performance the rights of the Purchaser, particularly his rights to rescission and damages, shall be governed by the statutory provisions. The provisions according to the following point 5 remain unaffected.

5. If the Supplier is in arrears, the Purchaser can demand a contractual penalty of 1% of the net price per complete calendar week, in total however, no higher than 5% of the net price of the delayed goods or performance. The Purchaser is entitled to demand the contract penalty

in addition to performance and, as a minimum sum for the damages owed by the Supplier in accordance with the statutory provisions. The enforcement of further damages remains untouched. If the Purchaser accepts the delayed goods the contractual penalty is to be claimed at the latest at the time of the final payment.

V. Delivery, Performance, passing of Risk and Distribution, place of Performance, Export Controls, Customs

1. The Supplier shall not - without the prior consent of the Purchaser - be entitled to have the performance, which the Supplier owes, rendered by a third party (e.g. a subcontractor). The Supplier bears the procurement risk for his services if no other individual agreements have been made.

2. In the case of deliveries involving installation or assembly and in the case of services, risk of accidental loss, destruction and of accidental deterioration of the goods shall pass to the Purchaser upon acceptance, in case of deliveries which do not involve installation or assembly upon receipt at the specified place of performance if no other individual agreements have been made. The place of performance for deliveries shall be the place of fulfillment. (Duty to deliver)

3. Unless otherwise agreed, postage and packaging costs are borne by the Supplier. If parties agree upon delivery conditions in accordance with Incoterms where the Purchaser carries the delivery costs in part or in full, the delivery method with the lowest possible cost must be selected, unless otherwise stated by the Purchaser. Additional costs incurred by not observing forwarding instructions shall be borne by the Supplier. If parties agree upon delivery conditions in accordance with Incoterms where the Supplier carries the delivery costs in full, the Purchaser has the right to define the delivery method as well. Additional costs incurred by expedited delivery methods in order to observe a delivery deadline shall be borne by the Supplier.

4. Delivery of products for use in a clean room must be made in clean room packaging and must be labeled with the part number and part description.

5. Every delivery must contain a packing ticket and a delivery note with information about the content, purchase order number and the order quantity.

6. For delivery or services from a third country, the package must contain an additional accompanying invoice with the exact value of goods. In order to conform to the legal export and re-export provisions the deliveries/performances must comply with the pertaining German and/or European or US export regulations, the export list number or Export Control Classification Number ECCN (US) and, if applied, the US export license/license exception must be given. This information must be included on the delivery note for each item. Notice of dispatch shall be provided immediately with the same information. If requested, the Supplier will supply the Purchaser with a long-term supplier's declaration for the requested goods or services. The Supplier is liable for the accuracy of the given information. For the delivery of goods by which stately anti-dumping measures apply and therefore are subjected to penalty duty sanctions/punitive tariff for import, the written authorization of the Purchaser must be obtained before delivery.

7. The Purchaser is subject to independent customs clearance. For this reason the customs may not be taken over by the Supplier when bringing the goods through customs of the exporting or importing country, irrespective of agreed delivery provisions in accordance with Incoterms. Pass through customs duties will not be reimbursed.

8. Excess deliveries are only permitted with the prior express consent of the Purchaser.

VI. Invoices

The order identification and numbers for each item must be given on the invoice. The invoices are not payable if this information is missing. Invoice copies are to be clearly marked as duplicates.

VII. Payment, Off-setting, Withholding

1. Unless otherwise agreed, payments are made within 14 days less 3% cash discount or within 30 days net without deduction.

2. The payment period begins as soon as the delivery or service has been completely fulfilled and the proper invoice has been submitted. If material tests, test protocols, quality documents or other documentation are to be supplied by the supplier, these must be included in the delivery for the delivery to be deemed complete. For deliveries or services made before the agreed delivery date respectively service date, the payment period begins at the originally agreed delivery or service date, or upon receipt of a correct invoice, whichever is later. A cash discount deduction is also admissible in the event the Purchaser offsets the invoice against other Purchaser's claims or withholds payments due to defects at a reasonable amount; the payment period commences after the complete remedy of any defect

3. Payments do not imply that we recognize the deliveries or services as being in accordance with the contract.

4. The Purchaser only comes into arrears if it fails to pay after receipt of the Supplier's payment reminder issued after the invoice became due.

5. As from the date upon which the Purchaser came into arrears, the Supplier can charge interest on arrears of 5 percentage points over the base rate.

6. The Purchaser is entitled to the statutory offsetting and withholding rights as well as the plea of non-fulfillment of contract. The Purchaser is especially entitled to withhold payments due as long as he has claim for incomplete or defective goods or services against the Supplier.

7. The Supplier has a right of set-off and/or right of retention only because of counterclaims that have been established by final decision or are undisputed.

VIII. Incoming Tests

For the commercial duty to inspect and to give notice of defects, the statutory provisions apply (§§ 377, 381 HGB) with the following proviso: The Purchaser's duty to inspect is limited to defects which are revealed at the incoming goods inspection by an external examination

including shipping documents as well as the Purchaser's quality inspection by random samples (for example transport damages, wrong and short delivery). Insofar as acceptance testing is agreed upon, there is no obligation to inspect. Furthermore, the duty to inspect is dependent on the feasibility of an inspection given the circumstances of the individual case according to proper business routines. The Purchaser's duty to report any defects discovered later remains unaffected. In all cases the reproof (notice of defect) shall be deemed to have been without undue delay and in time if it is received by the Supplier within 8 (eight) working days.

IX. Liability for Defects

1. The statutory regulations shall apply to the rights of the Purchaser in case of defects of quality and title (including false and shortfall in delivery, improper assembly as well as faulty assembly instructions or operating manual) and in other breaches of duty by the Supplier, the statutory provisions apply unless agreed otherwise below.

2. The Supplier must grant three years warranty for deliveries and services insofar as the legislation does not foresee longer periods. The warranty period begins with the transfer of risk (paragraph V number 2).

3. If defects are discovered before or during the transfer of risk or within the period described in paragraph IX, number 2, the Supplier must either repair the defects or replace the goods or services according to the Purchaser's wishes at his own cost. The Purchaser shall make his choice in reasonable discretion.

4. If the Supplier does not carry out a replacement performance within a reasonable period set by the Purchaser, the Purchaser is entitled to remedy the defect himself and claim from the Supplier reimbursement for the incurred expenses or respectively a corresponding advance.

5. Any further or other legal rights of the Purchaser remain unchanged. The Purchaser is entitled to reduction of the purchase price or withdrawal from the contract according to the statutory regulations in the case of defects of quality and title. Furthermore, the Purchaser is entitled to damage and compensation claims according to the statutory provisions.

6. The Supplier bears the costs and risks of a return consignment of defective delivery items.

X. Liability for the Infringement of Property Rights

The Supplier is liable in accordance with statutory regulations, provided intellectual property rights, including copyrights are opposed to the contractually agreed upon use.

XI. Provided Materials, Further Processing

1. Materials provided remain the property of the Purchaser and shall be stored separately, identified and administered free of charge. They may only be used for the orders of the Purchaser. In the case of depreciation of value or loss of the items, the Supplier must provide a replacement. This also applies to the transfer of allocated material.

2. Processing, mixing or restructuring (further processing) by the Supplier of provided items shall be carried out for the Purchaser. The same applies for further processing of delivered

goods by the Purchaser, so that the Purchaser can be regarded as the manufacturer and, as a latest at further processing gains ownership of the delivered goods in accordance with the legal provisions. The Supplier will hold the new goods, at no cost to the purchaser and in so doing exercise the duty of care of a respectable merchant.

XII. Tools, Moulds, Samples, Nondisclosure

The tools, moulds, samples, mockups, profiles, drawings, standard specification sheets, manuscripts/master drawing and gauges, allocated for use by the Purchaser, as well as the manufactured goods made using them, are not allowed to be passed on to a third party or to be used for any other than the contractual purposes without the explicit consent of the Purchaser. They have to be protected from unauthorized inspection or use. Subject to other rights, the Purchaser can demand the restitution of his property, if the Supplier breaches his duties. The Supplier shall not permit third parties access to information obtained from the Purchaser unless such is already common knowledge or the Supplier has gained knowledge thereof in another lawful manner. Insofar as the Purchaser has agreed to any subcontracting to a third party, the Supplier has to secure that such third party shall agree to such terms in writing.

XIII. Insurance

The Supplier is obliged to provide transport insurance cover in accordance with the agreed bearing of risks.

XIV. Extraordinary Right of Termination

Should the Supplier cease to make payments, or if an interim insolvency administrator is appointed or if insolvency proceedings are commenced in relation to the Suppliers assets, the Purchaser is entitled to terminate the contract in part or in full or to declare his rescission of the contract.

XV. Workplace Safety, Environmental Protection, Dangerous Goods/ Dangerous Materials

1. The Supplier is obliged to adhere to the regulations for workplace safety, environmental protection, especially accident prevention during the processing and execution of the order.

2. If the delivery exhibits dangerous properties in accordance with the EC/EU directive 67/548 EWG, the respective labeling must be attached. Before the first delivery, the Purchaser must receive the safety data sheet in accordance with 91/155/EG. In case of changes or amendments to this data sheet, the purchase department of the Purchaser must receive a current and updated version of the data sheet where the amendments are highlighted. If demanded by the Purchaser, additional information to ensure workplace safety must be made available. Radioactive substances must be declared in advance. The Supplier will adhere to all legal requirements regarding dangerous materials, e.g. European regulations for transport of hazardous goods in accordance with ADR (European Agreement concerning the International Carriage of Dangerous Goods by Road), especially in regards to a differing labeling of the goods, where required in accordance with ADR.

XVI. CE Conformity, Radiation Protection

If the receiving station given by the Purchaser is within a member state of the European Union, the delivered machines or systems must be CE certified. A declaration of conformity for the machine or system must be given to the Purchaser on demand. For machines or systems that fall within the scope of the regulations for radiation protection, all information with regard to the required authorizations must be made available to the Purchaser immediately upon conclusion of the contract.

XVII. Place of Jurisdiction, Applicable Law

1. For these terms and conditions of ordering and all legal relations between the Purchaser and the Supplier, the laws of the Federal Republic of Germany apply excluding the UN Convention on Contracts for the International Sale of Goods (CISG). Prerequisites and effects of the reservation of title shall be subject to the law of the respective location of the subject-matter, if, under said law, a choice of law made in favor of German law is not permitted or is void.

2. Is the Supplier a registered trader in the sense of the commercial code, a corporate body under public law or a special asset body under public law, then at the seat of the Purchaser in Paderborn is the exclusive, also international, place of jurisdiction for all disputes resulting directly or indirectly from the contractual relation. The Purchaser is, however, entitled to take legal actions at the place of performance of the delivery obligation.

XVIII. Obligation of Conditions of Ordering

Should any provision of these Terms and Conditions of Ordering be or become invalid or illegal partially or entirely or include a gap, then the remaining provisions shall retain their validity.