

1. Scope of Application

- 1.1 These General Purchasing Terms and Conditions apply to all goods and services ordered by *Interflex Datensysteme GmbH* (hereinafter called "Interflex" or "we/us") provided the Supplier is an entrepreneur pursuant to § 14 BGB of (German Civil Code) and the contract is an integral part of the company's operation. They shall also apply to legal entities of public law and public-law special entities pursuant to § 310 Para. 1 of BGB.
- 1.2 Other or additional terms and conditions of the Suppliers that may conflict with or deviate from these General Purchasing Terms and Conditions shall not apply, even if we do not expressly object to such terms and conditions. This shall also apply to the unconditional acceptance of deliveries and services despite our being aware of such conflicting or deviating or additional terms and conditions of the Supplier. These shall also not apply if we do not expressly object to order confirmations with conflicting, deviating or additional terms and conditions submitted after we have placed our purchase order.
- 1.3 These General Purchasing Terms and Conditions shall also apply to future business transactions with the Supplier, whereby the latest valid version shall apply.
- 1.4 This in no way affects the rights to which we are entitled in accordance with the statutory provisions or other arrangements exceeding these General Purchasing Terms and Conditions.

2. Formation of Contract, Subject Matter

- 2.1 Any and all purchase orders shall only be legally binding if they have been placed by us in writing or have been confirmed by us in writing. A purchase order, which is issued by us with the aid of an automated system and thus does not have a signature and the name of the signatory, is deemed as in writing. Changes or amendments to the purchase order shall only be binding if confirmed by us in writing. A verbal or implicit modification of the written form requirement is not valid.
- 2.2 Silence on our part with regard to quotations, requests or other statements by the Supplier shall not be construed as acceptance, unless agreed upon in writing in advance.
- 2.3 The Supplier shall confirm our purchase order in writing at the latest two (2) weeks after receipt; failure to do so shall allow us to revoke our order as a whole or in part at no cost to us. If the Supplier executes the order within said period, the order shall be deemed accepted even without a written confirmation.
- 2.4 Contractual elements shall apply in the following order: Our purchase order, our Description of Services, or our performance specifications, these General Purchasing Terms and Conditions.
- 2.5 Only with our prior written approval is the Supplier authorized to assign the performance of deliveries and services or parts thereof to an independent third-party or have same performed by third parties.
- 2.6 We reserve all the copyrights and industrial property rights as well as ownership relating to the Description of Services, product descriptions, test programs, calculations and other materials, which we provide to the Supplier as part of the requests for proposals or purchase orders or otherwise during the performance of the contract. Such materials are subject to the confidentiality obligations under Para. 19. These materials must be returned to us immediately without any prompting or request after the purchase order has been processed or if a contract is not formed.
- 2.7 In the event that the Supplier should intend to change the composition of processed material or the design of product compared to previous orders, the Supplier shall undertake to notify us in this regard in writing prior to starting production or changing production. Such changes require our written consent.
- 2.8 We are entitled to withdraw from the contract either completely or in part if the financial circumstances of the Supplier deteriorate significantly or the justified application for commencing insolvency proceedings or similar against the Supplier's assets is rejected due to insufficient funds.

3. Delivery and Performance Deadlines

- 3.1 Agreed-upon delivery dates shall be binding. If a calendar week is stipulated as the delivery date, the latest delivery date shall be the last business day of said calendar week.
- 3.2 Delivery periods shall begin on the day the Supplier receives our purchase order, except in cases where we have consented in writing to a different delivery period as possibly stipulated in the Supplier's order confirmation.
- 3.3 The timeliness of the delivery of goods shall be contingent on the time of receipt at the point of acceptance stipulated by us; the timeliness of work performance (Werkleistungen) shall be determined by their acceptance by us or the point of acceptance stipulated by us. In the event that goods ordered include set-up or installation services, such deliveries shall be deemed rendered only upon completion of the set-up and installation work. We are not obliged to accept partial deliveries or services.
- 3.4 Early deliveries shall be permitted with our consent. They shall not affect, however, the agreed upon payment due dates and prices. In the event that delivery is made earlier than agreed upon, we reserve the right to return the delivered product at the expense and risk of the Supplier; if no return shipment is made in such a case, the delivery object shall be warehoused by us at the Supplier's expense and risk until the agreed upon delivery date.
- 3.5 In the event of a recognizable or foreseeable delay in the rendering of goods or services, the Supplier shall undertake to notify us in writing immediately while indicating the reasons and expected duration of the delay and shall obtain our decision on further action.
- 3.6 In the event of delays in delivery or performance, we are entitled to demand a contractual penalty in the amount of 0.5% of the net order value for every week of delay or fraction thereof, however, no more than 5 % of the net order value. This shall be without prejudice to the enforcement of further statutory entitlements, especially claims for damages.
- 3.7 Force majeure, labor disputes or other unpreventable and unforeseeable events shall release the Supplier from the Supplier's performance obligations for the duration and to the extent of the effect of such disturbances only. The Supplier shall undertake to immediately provide us with the required information within the scope of reason and shall adapt the Supplier's obligations to the altered conditions in good faith. We shall be entirely or partially released from the obligation to accept the ordered goods or services if, due to the delay, caused by said circumstances we justifiably are no longer interested in the goods or services.

4. Delivery and Passage of Risk

- 4.1 Orders shall be shipped to the operating site that has placed the order or to the shipping address stipulated in the purchase order. Delivery shall be carried out in packaging that is appropriate for the type of the objects of delivery. The objects of delivery in particular shall be packaged in such a way as to prevent any transport damages.
- 4.2 A delivery note containing the following information shall be included in every delivery: Quantity shipped, description of goods, our order number, comment indicating whether the shipment is a partial shipment or a substitute shipment.
- 4.3 In case of shipment of goods, the risk of accidental loss or deterioration passes over to the Purchaser at the latest with the shipment of the object. If orders placed include the performance of installation or set-up work, the risk shall transfer to us only upon performance of the acceptance by us after the completion of the set-up or installation work (see Para. 6).
- 4.4 Unless otherwise agreed upon, all shipping and packaging costs, customs duties, fees, taxes and other dues, as well as ancillary costs, shall be borne by the Supplier. If delivery terms are ex works or ex warehouse of the Supplier, goods shall be shipped via the most economical method unless agreed upon otherwise.

5. Duty to Examine and Notify of Non-Conformity

- 5.1 Upon arrival of the delivered goods, we shall perform an inspection for obvious defects only. We shall promptly notify the Supplier of any defects noted.
- 5.2 Claims shall be deemed filed in a timely manner if they are received by the Supplier within a period of ten (10) business days as of the date of arrival, or, in the event of concealed defects, as of the date of detection.
- 5.3 A shipment shall be deemed defective as a whole if an inspection reveals that the agreed upon AQL value, if applicable, has been exceeded. In this case, we may refuse to accept the entire delivery. Should only defective items be rejected during a sampling inspection and further defects be revealed during later examinations, the Supplier shall pay the costs of these further examinations.

6. Acceptance

- 6.1 The delivery of products or movables which have to be produced or newly manufactured including programming of software must undergo acceptance inspection by us just like work performance. Every party is entitled to demand a formal acceptance inspection of the performance upon their completion.
- 6.2 The Supplier shall bear the charges arising in connection with the unsuccessful acceptance tests.
- 6.3 If the acceptance reveals any deficiencies, we are entitled to refuse acceptance. This also applies in case of insignificant deficiencies.
- 6.4 The risk of accidental loss or deterioration of the object of delivery passes over to us with the acceptance.
- 6.5 The duty to examine and notify of non-conformity as per Paras. 5.1 and 5.2 does not apply for the acceptance of work performance. In case of products or movables which have to be produced or newly manufactured, Paras. 5.1 and 5.2 apply accordingly with the proviso that the duty to examine and notify of non-conformity for recognizable deficiencies does not expire prior to acceptance.

7. Warranty and Liability for Material Defects

- 7.1 The Supplier guarantees that the object of delivery or performance (a) complies with the specifications of our purchase order, (b) satisfies the current state of technology, the relevant statutory provisions and the applicable regulations and guidelines of official authorities, worker's compensation associations and trade associations and (c) is free of material defects.
- 7.2 In case of material defects we are entitled at our discretion to demand as subsequent performance the elimination of the deficiency or the delivery of deficiency-free objects of delivery on part of the Supplier within a suitable period set by us. The Supplier shall bear the expenses required for the purpose of subsequent performance. This also applies if the object of delivery or performance is moved to a different location than the location agreed upon for delivery or service in our purchase order in accordance with its intended use following delivery or performance.
- 7.3 Incidentally, the Supplier shall be liable for material defects pursuant to applicable statutory provisions. The right to seek damages in particular is expressly reserved. This in no way affects any more extensive warranties on part of the Supplier.
- 7.4 The statutory period of limitations for our deficiency claims is thirty-six (36) months starting on the day of delivery (in case of deliveries) or as of acceptance inspection (for performance). If (a) the faulty objects of delivery were used in accordance with their typical manner of use for a structure and have resulted in their defectiveness or (b) there is a deficiency in a structure or (c) the deficiency involves a work, the success of which in the provision of planning and monitoring services is significant for a structure, then the statutory period of limitation is five (5) years. Contrary to clauses 1 and 2, deficiency claims become time-barred in the regular statutory period of limitation, if the Supplier has failed to report the deficiency with intent to deceive; in case of clause 2, the claim becomes time-barred only after expiry of the period specified there.

8. Liability for Legal Defects

- 8.1 The Supplier shall be liable for the freedom of the goods and services to be rendered by the Supplier from any third party property rights and other legal defects that would limit or preclude their use in compliance with the contract.
- 8.2 In the event that third parties should claim that the Supplier's goods or services infringe their property or other rights, the Supplier shall indemnify us comprehensively against any and all third party claims upon our first request and shall reimburse to us all related expenditures. We are especially authorized to seek authorization from the third party to use the affected objects of delivery and services at the expense of the Supplier. The obligation to indemnify and reimburse expenses does not apply if the violation of third party property rights is beyond the control of the Supplier.
- 8.3 Otherwise, the Supplier shall be liable for legal defects pursuant to applicable statutory provisions. The right to seek damages in particular is expressly reserved.

9. Product Liability

- 9.1 In the event of product defects that result in statutory product liability in Germany or abroad, the Supplier shall undertake to indemnify us against third-party damage claims upon our first request insofar that the cause of the product defect was determined to be within the Supplier's scope of control and/or organization.
- 9.2 Within the scope of the Supplier's product liability, the Supplier shall also undertake to reimburse to us any expenditures incurred as a result of or in conjunction with warning, exchange or recall activities carried out by us. We shall inform the Supplier – if possible and reasonable – of the contents and scope of the recall to be performed, and shall give the Supplier the opportunity to comment.
- 9.3 The Supplier agrees to maintain an extended product liability and product recall insurance with a worldwide coverage and an appropriate cover suitable for the objects of delivery and service amounting to at least € 5 million per personal injury (for each individual person), at least € 5 million per material damage and at least € 2 million for financial losses. The Supplier hereby assigns to us the claims from the extended product liability and product recall insurance with all ancillary rights. If an assignment is not permitted under the insurance policy, the Supplier shall hereby instruct the insurance company to make the relevant payments only to us. Upon request, the Supplier shall provide proof of entering into and the existence of the extended product liability and product recall insurance. If the Supplier fails to duly comply with its obligations under Para.9.3, we are entitled to take out a corresponding product liability insurance at the Supplier's expense.
- 9.4 This shall in no way affect any more extensive statutory claims due to product deficiencies.

10. Work Product, Property Rights and Licenses, Confidentiality

- 10.1 If legally possible, we shall be exclusively entitled to any intellectual property rights inherent in any work product, including all inventions, test and development reports, drafts, computer programs, designs, proposals, samples or models produced by the Supplier within the scope of rendering the goods or services, as of the time such work products are created.
- 10.2 In the event that such work product should be eligible for protective rights, we shall have the right to apply for industrial property rights in our own name and at our own expense domestically and internationally and/or have the right to transfer the same to a third party. The Supplier shall provide us with all required information in this regard and shall, in exchange for reimbursement of any expenditure incurred, support us in the performance of such industrial property rights applications. The Supplier shall make unlimited claims to inventions eligible for protective rights of the Supplier's employees through declarations to that effect to the respective inventors and shall transfer the same to us upon our request while releasing the statutory employee remuneration. The assignment of industrial property rights by the Supplier shall be discharged with the agreed-upon remuneration for the respective goods or services.
- 10.3 In the event that the work product should be protected by copyrights, the Supplier shall grant us the exclusive, irrevocable, transferable and sub-license eligible right without any time, geographic or contents restrictions to use said work product in all known and unknown types of utilization at our discretion, and to in particular reproduce, distribute, exhibit same, present and make it accessible publicly as well as to modify or edit same at our discretion. The granting of the aforementioned rights shall be included in the agreed upon remuneration for the respective goods or services.
- 10.4 If the work results are embodied, the contractor transfers the respective objects, materials and documents to us and transfers us ownership thereof with their creation, and in particular in the respective state of processing. In case of Software, this applies both to the codes (object and source code) and the related development documentation.
- 10.5 Through adequate contractual agreements with the Supplier's organs, employees, representatives and other agents, the Supplier shall safeguard and ensure its ability to grant the rights to the work product produced by same during the performance of delivery and services to the extent described in Para. 8.

11. Supply Inventory, Replacement Parts

- 11.1 For the period of the anticipated technical utilization of the goods or services, the Supplier shall maintain an inventory of spare parts and deliver such to us at reasonable prices on the basis of these General Purchasing Terms and Conditions whenever a respective purchase order is placed.

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- 11.2 In the event that the Supplier should intend to cease keeping a required inventory for the supply of such spare parts or to discontinue their delivery, the Supplier shall notify us accordingly and give us an opportunity to place an inventory order.
- 11.3 In the event that the parties should fail to come to an agreement on the conditions or prices for such orders, or if orders are no longer possible because the Supplier has already ceased to maintain an inventory or terminated respective shipments, we shall have the right to demand the provision and free use of the documents and objects required for the production of pertinent spare parts.
- 12. Prices**
- 12.1 All prices indicated by us in the purchase order are binding. Unless otherwise stipulated in writing in the purchase order, the prices are fixed prices.
- 12.2 All deliveries and services are rendered "free to place of fulfillment", unless stipulated otherwise in the purchase order. Place of fulfillment is the delivery address or the place of performance indicated in the purchase order.
- 12.3 All transport, insurance, packaging and other ancillary costs, charges and customs duties and other public fees up to delivery and/or set-up in an operable state at the place of fulfillment are discharged with the price indicated in our purchase order, unless agreed upon otherwise in writing.
- 12.4 In the absence of other stipulations in our purchase order or other written arrangement, the agreed upon price includes in particular the costs for any possibly occurring assembly, installation, integration and migration work, which are to be carried out by the Supplier at our premises without disrupting ongoing operation, if necessary even outside of the normal business hours.
- 12.5 For the use of the object of delivery or performance, relevant instructions for operation, handling, use and service or other documents to be prepared by the Supplier shall be provided in German and in English, unless another language is specified in the purchase order. The instructions and documents to be provided are covered by the agreed upon price.
- 13. Invoicing**
- 13.1 After delivery or completion of the rendering of services including acceptance by us, invoices shall be issued to the ordering operation site in duplicate for each individual purchase order, stipulating the order date and the order number or any other order identification. The second copy of the invoice or invoice duplicate shall be clearly marked as such. If statutory sales tax should apply, this must always be indicated separately.
- 13.2 Invoices shall be sent separately and shall not be included with goods shipments.
- 13.3 Invoices that have not been properly issued or sent are not deemed as sent and shall not activate the time allowed for payment.
- 14. Payments**
- 14.1 Our payments shall be made pursuant to the terms stipulated in the purchase order. Unless otherwise agreed upon, we shall have the option to choose the mode of payment – bank transfer, check or discountable draft – at our discretion and shall have the right to determine which Supplier claim is to be satisfied by the payment.
- 14.2 The time allowed for payment shall begin on the day of receipt of the invoice, however, not before the goods are received at the reception point stipulated by us and in the event of early shipment not before the agreed upon delivery date. Payments shall be made at our discretion either within thirty (30) days with a 3% cash discount or within ten (10) days with a 4% cash discount or within sixty (60) days net. The deduction of a cash discount shall also be permitted if we make the full or part of the payment through set-off or if we make only partial payments due to justified withholding pursuant to Para. 14.3.
- 14.3 In the event of incomplete or defective rendering of goods or services we shall have the right to withhold a pro-rated portion of the payment until proper fulfillment without loss of discounts, rebates or similar price reductions, subject to the enforcement of further statutory rights. Payment of the invoice amounts without raising objections shall not constitute acceptance of the goods or services of the Supplier as contract-compliant.
- 15. Retention of Title, Material Provision**
- 15.1 Unless otherwise agreed upon the transfer of title in goods delivered to us shall be governed by applicable statutory provisions. Any prolonged or expanded retention of title by the Supplier for goods delivered to us shall not be accepted, the same shall apply to the simple retention of title stipulated in the Supplier's General Terms and Conditions.
- 15.2 In the event that based on a separate written agreement the Supplier should retain title in product supplied, we shall have the right to re-sell such product to our customers within the scope of proper business operations, without having to make reference to the Supplier's retention of title.
- 15.3 In the event that we should provide material to the Supplier, we shall retain title in same. If the product provided is processed or converted by the Supplier, this is always done on our behalf. Our ownership of the product provided continues to exist in the processed or converted object. In the event that product provided is processed along with, connected with or inseparably mixed with other objects that are not our property, we shall acquire co-ownership in the new object at the ratio of the value of our property to the other processed, connected or mixed objects at the time of processing, connection or mixing. If the processing, connection or mixing is performed in such a manner that the property of the Supplier must be deemed the main property, it shall be deemed agreed upon that the Supplier assigns the applicable ratio of co-ownership in the property to us. The Supplier shall hold the objects subject to our sole ownership or co-ownership on our behalf.
- 15.4 Any samples, production devices, in particular tools, drawings, print masters and the like provided to the Supplier by us, shall remain our property, which shall be stored and marked as our property by the Supplier with the diligence of a professional business person at no cost to us and separately from the Supplier's other objects. Without our written consent, copies may not be made of the models, samples, drawings, print masters, and the like nor may they be passed onto third parties. After performance of service, all objects and documents provided by us shall be returned to us immediately and without any prompting free of charge.
- 15.5 In the event that purchase-order-specific devices, in particular tools are manufactured at our expense for the performance or within the scope of a purchase order, title in same shall transfer to us upon production.
- 15.6 In the event that the securitization rights we are entitled to pursuant to Paras. 15.3 and 15.4 should exceed the purchase price of all goods provided by us and not yet fully paid for by the Supplier by more than 10%, we shall undertake to release the collateral exceeding this limit upon the Supplier's request, whereby the selection of the objects to be released in detail shall be at our discretion.
- 16. Assignment of Receivables, Setting Off, Right of Retention**
- 16.1 The Supplier shall not be authorized to assign any receivables from us or have same collected by third parties without our prior written consent. § 354 a Para. 1 of HGB (German Commercial Code) remains unaffected.
- 16.2 The Supplier shall have the right to set off only if the Supplier holds an undisputed receivable against us or one that has been confirmed to be final by a court of law.
- 16.3 The Supplier may only assert a right of retention if its counterclaim is based on the same contractual relation.
- 17. Termination**
- 17.1 Contracts for work and services shall be governed by the statutory right to terminate under the provision that in the event of termination we shall be required to pay only for services already rendered by the Supplier and for already incurred and documented additional expenditures.
- 17.2 The right to terminate for important cause shall be reserved for permanent debtor relationships. Important causes for termination by us are in particular:
- the application of or initiation of insolvency proceedings against the Supplier's assets or rejection of same due to lack of funds;
 - in the event that the Supplier has been commissioned as a sub-contractor for one of our projects with a customer of ours, the termination of the respective master agreement by the customer or the refusal of the customer to have further services rendered by the Supplier.
- 18. Disposal Responsibilities Pursuant to ElektroG (German Electrical Equipment Act)**
- 18.1 In the event that pursuant to § 10 Para. 10 (2) of Elektro- und Elektronikgerätesgesetz (ElektroG: Electrical and Electronic Equipment Act) the Supplier as manufacturer should later be required to dispose of the supplied electrical and electronic devices pursuant to the ElektroG, any arrangement departing from same, in particular the transfer of the disposal responsibility to us, shall be subject to a separate, express and written agreement (Agreement on Disposal Obligations Pursuant to ElektroG).
- 18.2 We herewith expressly object to an interpretation of the disposal responsibility, divergent from § 10 Para. 2 (1) of ElektroG, by the Supplier within the scope of the Supplier's General Terms and Conditions passing same on to us.
- 19. Protection of Confidential Information**
- 19.1 Each contracting party shall treat any and all business and company secrets of the other party it becomes aware of within the framework of the business relationship as confidential and shall use such only for the purposes of the respective contract. The recipient shall not make such business and company secrets available to any third party and shall only permit employees to access such business and company secrets only to the extent necessary for the purpose of the respective contract.
- 19.2 The obligation under Para. 19.1 shall not apply to such technical or business information that the recipient was already aware of before it obtained such from the other party, or to information that becomes part of the public domain without breach of this obligation, or that has been released for publication in written form by the other party.
- 19.3 The parties shall ensure by way of forming appropriate contractual agreements with their employees, representatives and other agents that the latter are subject to the corresponding confidentiality obligations.
- 19.4 The confidentiality obligation according to Para. 19 shall continue to apply and remain valid after the respective contract elapses.
- 20. Final Provisions**
- 20.1 Should any individual provision or any part of any provision of these General Purchasing Terms and Conditions be or become void or unenforceable or if a loophole is determined herein, the validity of the remaining provisions is in no way affected. The contracting parties agree to replace the void and/or unenforceable provision with an effective or enforceable provision coming as close as possible to the sense, spirit and purpose of the void and/or unenforceable provision. In case of a loophole, such provision is deemed as agreed upon that comes as close as possible to the sense, spirit and purpose of these General Purchasing Terms and Conditions as desired or would have been desired, if the contracting parties had considered the matter in the beginning.
- 20.2 Modifications or additions to the contract formed on the basis of the General Purchasing Terms and Conditions shall be made in writing. They shall be null and void if they do not satisfy this requirement. This shall also apply to modifications of this written form clause.
- 20.3 The operating site of our company that has placed the order or the reception point stipulated in our purchase order shall be the exclusive place of fulfillment.
- 20.4 Exclusive competent court is Stuttgart, Germany. We are nonetheless entitled to take the Supplier to court at its general place of jurisdiction or at every other admissible place of jurisdiction.
- 20.5 The contract is governed by the laws of the Federal Republic of Germany while excluding the provisions of UN Convention on International Sale of Goods.