

Hirschmann Automation and Control GmbH
Hirschmann`s General Conditions for the Supply of Products
For commercial transactions between businesses

I. GENERAL

1. The scope of deliveries and/or services (hereinafter referred to as "Delivery" or, the case may be, "Deliveries") shall be determined by the mutual written declarations of both Parties. General conditions of business of the Purchaser shall apply only if and when expressly accepted by us (hereinafter referred to as "us") in writing. Our terms of delivery shall also apply if we carry out the delivery to the Purchaser without reservations and we are aware of terms of delivery of the Purchaser that are in conflict with or contrary to our terms of delivery.
2. The written declarations made by both parties shall be deemed authoritative regarding the type and manner, in particular the scope and deadlines etc., of deliveries. Our offers shall at all times be subject to change without notice insofar as they are not expressly described as being of a binding nature. The contract shall only come into existence by way of our written confirmation and in accordance with the content therein or by way of delivery/performance. In the case of doubt our silence regarding an offer received by us shall be deemed a refusal.
3. We hereby reserve any industrial property rights and/or copyrights pertaining to its cost estimates, drawings and other documents (hereinafter referred to as "Documents"). The Documents shall not be made accessible to third parties without our prior consent and shall, upon request, be returned without undue delay to us if the contract is not awarded to us. Sentences 1 and 2 shall apply *mutatis mutandis* to documents of the Purchaser; these may, however, be made accessible to third parties to whom Deliveries have been rightfully assigned by us.
4. The Purchaser shall have the non-exclusive right to use standard software and firmware, provided that it remains unchanged, is used within the agreed performance parameters, and with respect to the agreed equipment. No express agreement shall be necessary for the Purchaser to make one back-up copy of standard software.
5. Partial Deliveries shall be allowed, unless they are unreasonable to accept for the Purchaser.
6. The term "claim for damages" used in the present General Conditions also includes claims for indemnification for useless expenditure.

II. PRICES AND TERMS OF PAYMENT

1. Prices shall be ex works and exclude packaging and turnover tax payable at the then applicable rate.
2. If we are responsible for assembly or erection and unless otherwise agreed, the Purchaser shall pay the agreed remuneration and any incidental costs required, e.g. travel costs, costs for the transport of tools and equipment, and personal luggage as well as accommodation allowances.
3. Payments shall be made free Supplier's paying agent.
4. The Purchaser may set off only those claims that are undisputed or against which no recourse is possible.
5. The Purchaser may only exercise a right of retention on the basis of counterclaims resulting from the same contract.
6. Payments shall, at all times, be effected with regard to the oldest sum due.
7. Bills of exchange and cheques shall only be deemed to constitute payment upon being cashed in. Payments by way of bills of exchange and cheques must be agreed upon in advance. Costs incurred as a result of discounts and other bills of exchange shall be borne by the Purchaser and shall fall due for payment without delay plus the respective valid value added tax.
8. Interest of 8% p.a. above the base lending rate shall be charged in the case of delayed payments. In the event that we can furnish proof of greater damage caused by delay, we shall be entitled to claim for such damages. However, the Purchaser is entitled to provide us with proof that no or considerably less damage has occurred as a result of the delay in payment.
9. If the Purchaser does not effect any payments on the due date, we may discontinue further work on current orders and request that all orders be subject to immediate advance payment, including orders not

yet completed or we may request an appropriate security. If the Purchaser does not honour our request to effect an advance payment or provide a security within a reasonable period of time, we shall be entitled to withdraw from the contract and invoice the Purchaser for the costs incurred up to that date.

10. Payments may only be effected to agents or authorized representatives with the effect of discharging an obligation if such parties furnish written proof of authority to collect.

III. RETENTION OF TITLE

1. Items pertaining to the Delivery ("Retained Goods") shall remain our property until each and every claim against it has against the Purchaser on account of the business connection has been fulfilled. If the combined value of our security interests exceeds the value of all secured claims by more than 10%, we shall release, on a pro-rata basis, the security interest if so requested by the Purchaser; we shall be entitled to choose which security interest we wish to release.
2. For the duration of the retention of title, the Purchaser may not pledge the Retained Goods or use them as security, and resale shall be possible only for resellers in the ordinary course of their business and only on condition that the reseller receives payment from its customer or makes the transfer of property to the customer dependent upon the customer fulfilling its obligation to effect payment. The Purchaser shall assign to us with immediate effect all his claims lodged against his customers or third parties resulting from the resale irrespective of whether the object of sale is resold without or following processing. The Purchaser is entitled to collect these claims subject to revocation. The Purchaser undertakes on our request to disclose the names of third party debtors and the amount of claims lodged against these, and to supply us with all other information and documents so that we are in a position to realize the claims assigned to us.
3. The processing or reforming of our goods shall at all times be carried out on our behalf (§ 950 of BGB/ German Civil Code). In the case of processing, installing, joining and mixing with other material that is not our possession, we shall acquire co-ownership of the new product in the proportion of the invoice value of our goods to that of the other material at the time of processing, joining or mixing. In other respects the same applies to the product created as a result of processing as that which applies to the object of purchase delivered subject to reservation.
4. The Purchaser shall inform us forthwith of any seizure or other act of intervention by third parties. All costs incurred by us due to the seizure shall be borne by the Purchaser.
5. Where the Purchaser fails to fulfill its duties, fails to make payment due, or otherwise violates its obligations we shall be entitled to rescind the contract and take back Retained Goods in the case of continued failure following expiry of a reasonable remedy period set by us; the statutory provisions providing that a remedy period is not needed shall be unaffected. The Purchaser shall be obliged to return the Retained Goods. The fact that we take back Retained Goods and/or exercise the retention of title, or have the Retained Goods seized, shall not be construed or constitute a rescission of the contract, unless we so expressly declare.

IV. TIME FOR DELIVERY; DELAY

1. Time-limits set for Delivery can only be observed if all Documents to be supplied by the Purchaser, necessary permits and releases, especially concerning plans, are received in time and if agreed terms of payment and other obligations of the Purchaser are fulfilled. Unless these conditions are fulfilled in time, time limits shall be extended appropriately; this shall not apply where the delay is attributable to us.
2. If necessary, the delivery can only take place with a valid export license. Lack of export license and/or the existence of other export barriers, which are not due to circumstances attributable to the supplier, will not lead to delay in delivery.
3. If non-observance of the time limits is due to force majeure such as mobilization, war, rebellion or similar events, e. g. strike, lockout, confiscation or embargo such time shall be extended accordingly.
4. If default is attributable to us and the Purchaser can prove that it has suffered a loss therefrom, the Purchaser may claim a compensation of 0.5% for every completed week of default, but in no case more than a total of 5% of the price of that part of the Delivery which because of the default could not be put to the intended use. If we are able to prove that the damage suffered by the Purchaser as a result of delay is

less than the stated compensation for delay, we shall only be under obligation to settle the sustained damage.

5. Purchaser's claims for damages due to a delay in Delivery as well as claims for damages *in lieu of* performance exceeding the limits specified in No. 4 above shall be excluded in all cases of delayed Delivery even upon expiry of a time limit set to us to effect the Delivery. This shall not apply in cases of mandatory liability based on intent, gross negligence, or due to death, injury to body or health. Withdrawal from the contract by the Purchaser based on statute shall be limited to cases where the delay in Delivery is attributable to us. The foregoing provisions do not adversely affect the burden of proof on the Purchaser.
6. At our request the Purchaser shall declare within a reasonable period of time whether it withdraws from the contract due to the delay in Delivery or insists on the Delivery to be carried out.
7. If dispatch or shipment is delayed at the Purchaser's request by more than one month after notice of the readiness for dispatch was given, the Purchaser may be charged, for every month commenced, storage costs of 0.5% of the price of the items of the Delivery, but in no case more than a total of 5%. The parties to the contract may prove that higher or, as the case may be, lower storage costs have been incurred.

V. TRANSFER OF RISK

1. Even where Delivery has been agreed freight free, the risk shall pass to the Purchaser as follows:
 - a) if the Delivery does not include assembly or erection, at the time when the Delivery is shipped or picked up by the carrier. Upon request of the Purchaser, we shall insure Deliveries against the usual risks of transport at the expense of the Purchaser;
 - b) if the Delivery includes assembly or erection, at the day of taking-over in the own works or, if so agreed, after a fault-free trial run.
2. The risk shall pass to the Purchaser if dispatch, shipping, the start or completion of assembly or erection, the taking over in the own works or the trial run is delayed for reasons attributable to the Purchaser or if the Purchaser has otherwise failed to accept Delivery.

VI. ASSEMBLY AND ERECTION

Unless otherwise agreed in writing, assembly/erection shall be subject to the following provisions:

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

5. The Purchaser shall attest to the hours worked by the erection personnel towards us at weekly intervals and he shall immediately confirm in writing if assembly, erection or commissioning has been completed.
6. If, after completion, we demand acceptance of the Delivery, the Purchaser shall comply therewith within a period of two weeks. In default thereof, acceptance is deemed to have taken place. Acceptance is also deemed to have been effected if the Delivery is put to use, after completion of an agreed test phase, if any.

VII. TAKING OF DELIVERY

The Purchaser shall not refuse to take Delivery due to minor defects.

VIII. DEFECTS AS TO QUALITY

In the case of claims regarding defects of quality lodged by the Purchaser it is assumed that the Purchaser has properly honored his obligations to inspect and give notice of defects in accordance with §§ 377 and 378 of HGB/ German Commercial Code). We shall be liable for defects as to quality as follows:

1. All parts or services where a Defect becomes apparent within the limitation period shall, at the discretion of the Supplier, be repaired, replaced or provided again free of charge irrespective of the hours of operation elapsed, provided that the reason underlying the Defect had already existed at the time when the risk passed.
2. Claims based on Defects are subject to a limitation period of 12 months. This provision shall not apply where longer periods are prescribed by law according to Art. 438 para. 1 No. 2 (buildings and things used for a building), Art. 479 para. 1 (right of recourse), and Art. 634a para. 1 No. 2 (defects of a building) BGB, as well as in cases of death, injury of body or health, or where we intentionally or grossly negligently fail to fulfil our obligation or fraudulently conceal a Defect. The legal provisions regarding suspension of expiration, suspension and recommencement of limitation periods remain unaffected.
3. Notification of Defect by the Purchaser shall be given in written form without undue delay..
4. In the case of notification of a Defect, Purchaser's payments may be withheld to a reasonable extent taking into account the Defect occurred. The Purchaser, however, may withhold payments only if the subject-matter of the notification of the Defect occurred is justified beyond doubt. Unjustified notifications of Defect shall entitle us to have our expenses reimbursed by the Purchaser.
5. We shall first be given the opportunity to supplement its performance within a reasonable period of time.
6. If supplementary performance is unsuccessful, the Purchaser shall be entitled to withdraw from the contract or reduce the remuneration, irrespective of any claims for damages it may have according to No. 10.
7. There shall be no claims based on Defect in cases of insignificant deviations from the agreed quality, of only minor impairment of usefulness, of natural wear and tear or damage arising after the transfer of risk from faulty or negligent handling, excessive strain, unsuitable equipment, Defective workmanship, inappropriate foundation soil or from particular external influences not assumed under the contract, or from non-reproducible software errors. Claims based on Defects attributable to improper modifications or repair work carried out by the Purchaser or third parties and the consequences thereof shall be likewise excluded.
8. The Purchaser shall have no claim with respect to expenses incurred in the course of supplementary performance, including costs of travel and transport, labor, and material, to the extent that expenses are higher because the subject-matter of the Delivery was subsequently brought to another location than the Purchaser's branch office, unless doing so complies with its intended use.
9. The Purchaser's right of recourse against us pursuant to Art. 478 BGB (businessperson's right of recourse) is limited to cases where the Purchaser has not come to an agreement with its customers exceeding the scope of the statutory provisions governing claims based on defects. Moreover, No. 8 above shall apply *mutatis mutandis* to the scope of the right of recourse the Purchaser has against us pursuant to Art. 478 para. 2 BGB.
10. The Purchaser shall have no claim for damages based on defects. This shall not apply to the extent that a Defect has been fraudulently concealed, the guaranteed characteristics are not complied with, in the case of loss of life, bodily injury or damage to health, restrictions to liberty and/or intentionally or grossly

negligent breach of contract on our part. The above provisions do not imply a change in the burden of proof to the detriment of the Purchaser. Any other additional claims of the Purchaser exceeding the claims provided for in this Article VIII, based on defect, are excluded.

IX. INDUSTRIAL PROPERTY RIGHTS AND COPYRIGHT; DEFECTS OF TITLE

1. Unless otherwise agreed, we shall supply the Delivery free from third parties' industrial property rights and copyrights (hereinafter referred to as "IPR") with respect to the country of the place of destination. If a third party lodges a justified claim against the Purchaser based on an infringement of an IPR with respect to a Delivery made by us and then used in conformity with the contract, we shall be liable to the Purchaser within the time period stipulated in Article VIII No. 2 as follows:
 - a) We shall at our discretion choose whether to acquire, at our cost, the right to use the IPR with respect to the Delivery concerned or whether to modify the Delivery such that it no longer infringes the IPR or replace it. If this would be unreasonable to demand from us, the Purchaser may withdraw from the contract or reduce the purchase price pursuant to the applicable statutory provisions.
 - b) Our liability to pay damages shall be governed by Article XI.
 - c) Our obligations stated above shall not apply unless the Purchaser (i) immediately notifies us of any such claim asserted by the third party in writing, (ii) does not concede the existence of an infringement and (iii) leaves any protective measures and settlement negotiations to our discretion. If the Purchaser stops using the Delivery in order to reduce the damage or for other good reason, he shall be obliged to point out to the third party that no acknowledgement of the alleged infringement may be inferred from the fact that the use has been discontinued.
2. Claims of the Purchaser shall be excluded if it is itself responsible for the infringement of an IPR.
3. Claims of the Purchaser shall also be excluded if the infringement of the IPR was attributable to specifications made by the Purchaser, to a type of use not foreseeable by us or to the Delivery being modified by the Purchaser or being used together with products not provided by us.
4. In the event of an infringement of an IPR, Article VIII Nos. 4, 5, and 9 shall apply *mutatis mutandis* to claims by the Purchaser pursuant to No. 1 a above.
5. Where other defects of title occur, Article VIII shall apply *mutatis mutandis*.
6. Subsequent and/or other claims by the Purchaser against us and/or its agents based on a defect in title not provided for in this Article IX shall be excluded.

X. IMPOSSIBILITY OF PERFORMANCE; ADAPTATION OF CONTRACT

1. To the extent that Delivery is impossible, the Purchaser shall be entitled to claim damages, provided that the impossibility is attributable to us. The Purchaser's claim for damages shall, however, be limited to an amount of 10% of the value of the part of the Delivery which, owing to the impossibility, cannot be put to the intended use. This limitation shall not apply in the case of mandatory liability based on intent, gross negligence or death, injury to body or health; this, shall in no way adversely affect the burden of proof on the Purchaser. The right of the Purchaser to withdraw from the contract shall remain unaffected.
2. Where unforeseeable events within the meaning of Article IV No. 2 substantially change the economic importance or the contents of the Delivery or considerably affect our business, the contract shall be adapted taking into account the principles of reasonableness and good faith. Where doing so is economically unreasonable, the Supplier shall have the right to withdraw from the contract. If we intend to exercise our right to withdraw from the contract, we shall notify the Purchaser thereof immediately after having realized the repercussions of the event; this shall also apply even where an extension of the Delivery period had previously been agreed with the Purchaser.

XI. OTHER CLAIMS FOR DAMAGES

1. The Purchaser has no claim for damages based on whatever legal reason, including infringement of duties arising in connection with the contract or tort.
2. The above shall not apply in the case of mandatory liability, e. g. under the German Product Liability Act ("Produkthaftungsgesetz"), in the case of intent, gross negligence, death, injury of body or health, or

breach of a condition which goes to the root of the contract (“wesentliche Vertragspflichten”). However, claims for damages arising from a breach of a condition which goes to the root of the contract shall be limited to the foreseeable damage which is intrinsic to the contract, unless caused by intent or gross negligence or based on liability for death, injury of body or health. The above provision shall in no way adversely affect the burden of proof on the Purchaser.

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

XII. VENUE AND APPLICABLE LAW

1. If the Purchaser is a businessperson, sole venue for all disputes arising directly or indirectly out of the contract shall be our registered office. However, we may also bring an action at the Purchaser's place of business.
2. Legal relations existing in connection with this contract shall be governed by German substantive law, whereas the application of the United Nations Convention on Contracts for the International Sale of Goods (CISG) shall be excluded.

XIII. SEVERABILITY CLAUSE

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

Situation as per July 2006