

## EFTEC (Changshu) Engineering Co., Ltd., China

### General Terms and Conditions of Purchase

#### § 1 General provisions – Scope of application

- (1) Our General Terms and Conditions of Purchase shall apply exclusively. We do not accept any conditions of the Supplier which contradict to or deviate from our General Terms and Conditions of Purchase. Contradicting or deviating conditions of the Supplier shall only be deemed to have been included in an agreement if we expressly consent to their application in writing. Our General Terms and Conditions of Purchase shall also apply if we unconditionally accept the supply with knowledge of contradictory or deviating conditions of the Supplier.
- (2) All provisions which have been agreed between us and the Supplier for the purpose of execution of an agreement have to be included in such agreement in writing.
- (3) Our General Terms and Conditions shall also apply for all future affairs with the Supplier.

#### § 2 Offer Documentation

- (1) Our order may only be validly accepted within a period of 2 weeks.
- (2) We reserve ownership rights and copyrights to any illustrations, drawings, calculations and any other documents; they may not be made accessible to any third parties without our explicit written consent. They are only allowed to be used within the production due to our order; they have to be returned to us without any further request after performance of the order. They must be kept strictly secret with regard to third parties.

#### § 3 Price – Payment conditions

- (1) The price as stated in the order shall be binding. In absence of other deviating written agreement, the price shall include free delivery, INCOTERMS 2010 DDP as well as packaging. Any return of the packaging shall be subject to separate agreement.
- (2) Unless otherwise agreed in writing, we will pay the purchase price upon delivery and upon receipt of the invoice with 2% discount within 14 days or net within 30 days after receipt of an invoice.

#### § 4 Time of Delivery

- (1) The delivery period as indicated in the order shall be binding.
- (2) The Supplier shall be obligated to immediately notify us in writing if circumstances occur or become known to him which indicate that he will not be able to comply with the specified delivery period.
- (3) In case of any delay in delivery we shall be entitled to claim a contractual penalty in the amount of 1% of the delivery value for each commenced week, however not more than 10% of the delivery value. We shall be entitled to claim such contractual penalty in addition to performance. Further claims and rights shall remain reserved.

#### § 5 Transfer of risk – Documentation

- (1) Unless otherwise agreed in writing, the delivery must be effected free of any costs, INCOTERMS 2010 DDP, to the place as set forth in the order. If the contractually agreed performance of the Supplier additionally to the delivery includes installation-, programming-, establishment-, steering- or other activities related to the goods after delivery to the place as set forth in the order, the risk shall be transferred upon completion of such activities.

- (2) The Supplier shall include our exact order number in all delivery documents and delivery notes; if he fails to do so, we shall not be held responsible for any delays in processing.

#### **§ 6 Quality and scope of delivery**

- (1) The delivery shall comply with all agreed specifications and technical standards.
- (2) If the scope of the ordered delivery includes software and unless otherwise agreed in writing, the Supplier shall also grant us a right to use of such software to the extent required in order to allow a use or future use of the ordered product in accordance with the agreement, additionally to the supply of required documentation related hereto.

#### **§ 7 Inspection for defects – Liability for defects**

- (1) We shall be obligated to inspect the goods with respect to any deviations in quality and quantity within an appropriate period; in any case any notice of defect shall be considered as to be given in due time if received by the Supplier within 10 working days after receipt of the goods or, in the event of hidden defects, after discovery. We are without any restriction entitled to all statutory claims for defects; we shall in any case be entitled to demand from the Supplier a remedy of defects or delivery of replacement goods at our discretion. We retain the right to claim compensation for damage.
- (2) We shall be entitled to rectify the defect ourselves or via a third party at the expense of the Supplier in case of imminent danger or particular urgency.
- (3) The period of limitation shall be 36 months as from the passing of risk.

#### **§ 8 Product liability – Indemnification – Liability insurance cover**

- (1) If a product liability claim is asserted against us, the Supplier shall be obligated to indemnify us upon first request against any and all claims for damages by third parties to the extent the reason of such claims results from his sphere of control and organization and he is himself liable in relation to third parties.
- (2) The Supplier shall be obligated to maintain a product liability insurance with adequate coverage within the period of an agreement, i.e. until expiration of the respective limitation period related to claims for defects. In case we are entitled to any further damage claims such claims shall remain unaffected.

#### **§ 9 Implementation of activities**

- (1) Persons which perform activities on the premises of third parties in order to fulfil contractual obligations on behalf of the Supplier related to agreements concluded with us shall observe the provisions of the respective work regulations or respective instructions of such third party. Our liability for accidents, which such persons suffer shall be excluded as far as such accidents have not been caused by intentional or gross negligent breach of duties by our legal representatives or vicarious agents.
- (2) If persons perform activities on the premises of third parties in order to fulfil contractual obligations on behalf of the Supplier related to agreements concluded with us and hereby intentionally or gross negligently cause damage within such activities to the aforementioned third parties and if claims are asserted against us due to such damage, the Supplier shall indemnify us against the asserted claims upon first demand.
- (3) If we assert that persons in the meaning of Section 9 clause 1 are not adequately qualified or for other reasons inappropriate for an implementation or continuation of the agreed activities, the Supplier shall be obligated to replace such persons upon first demand by adequately qualified and appropriate persons. In case of imminent danger or particular urgency or if the Supplier does not meet our legitimate demand in the meaning of sentence 1, we

shall be entitled to require the respective performance by third suppliers; in such case, the Supplier shall be obligated to indemnify us against the costs resulting from commissioning of such third suppliers. Further claims and rights shall be reserved.

#### **§ 10 Industrial property rights**

- (1) The Supplier represents that no rights of any third parties are violated in connection with its goods delivered.
- (2) If a third party for this reason asserts a claim against us, the Supplier shall be obligated to indemnify us against such claims upon first request.
- (3) The indemnity obligation of the Supplier shall apply to all our expenses which become necessary in conjunction with or related to the claim asserted by the third party.
- (4) The limitation period shall be ten years, starting from the conclusion of the contract.

#### **§ 11 Secrecy**

- (1) The Supplier shall be obligated to maintain strict secrecy with respect to any and all received information (e.g. pictures, drawings, calculations and other documents and information). They may only be disclosed to third parties with our express consent.
- (2) For the sake of confidentiality, the Supplier will restrict the access to the information to such circle of persons who necessarily and reasonably conventionally needs such access to the Information related to their activity for the Supplier. The Supplier will ensure that such persons will observe the secrecy obligations as stated herein.
- (3) The Supplier will take all reasonable measures to ensure that the information is effectively protected against any access by unauthorised third parties. The Supplier will immediately inform the other Party if it assumes or is aware that unauthorized persons obtain access to the information.
- (4) The confidentiality obligation shall continue to apply after completion of this agreement; it shall cease to exist if and to the extent the knowledge of manufacturing included in the information has become part of the public domain.

#### **§ 12 Applicable Law and Jurisdiction**

- (1) The contract and these terms and conditions shall be governed and construed by the laws at our registered office. The application of the Vienna Convention on Contracts for the International Sale of Goods (CISG) shall be excluded.
- (2) Any disputes arising out of the contract shall be resolved exclusively by the competent Courts at our registered office.