

E-T-A

Terms of Purchasing

1. General

- 1.1 Our general terms of purchasing shall apply to all present and future contracts and other relations of parties in connection with our purchasing activities.
- 1.2 Diverging, adverse or additional terms and conditions of our partners shall only become part of the contract as long as they comply with our purchasing terms or if we have expressly acknowledged the conditions of the contracting partner in writing.

2. Conclusion of the contract

- 2.1 Quotations from the contracting party are free of charge unless otherwise agreed.
- 2.2 Contracts are concluded by means of our ordering forms or agreed individual contracts. The supplier has to send us an order confirmation within 7 days (date of receipt) from the ordering date unless otherwise noted in the order or unless otherwise agreed.
- 2.3 Subsidiary agreements, conclusions or negotiations made orally or by phone require our written confirmation for effectiveness.
- 2.4 Orders covering an order value of 1000 € are only legally valid when countersigned by an authorised second person. Excluded hereof are orders sent via EDI (Electronic Data Interchange) and call-offs from skeleton contracts. These are valid even without signature.

3. Pricing

- 3.1 In the event of orders without price indication, the conclusion of the contract has to be expressly agreed upon by both parties and requires our written confirmation of the price.
- 3.2 Prices are fixed prices. Price increases or other changes shall only be permitted with our express consent. Price increases owing to ex post increases of list prices, cost increases etc. are excluded.

4. Delivery dates

- 4.1 Stipulated dates are binding. Unilateral changes are not permissible.
- 4.2 In the event of unfulfilled deadlines we are entitled to claim damages unless the contracting party can prove absence of fault.
- 4.3 Upon default and after granting an adequate period of grace and expiration, we are entitled to claim damages for non-performance or to withdraw from the contract. We may assert these rights without notice if the contracting party should definitely and seriously refuse performance or in the event of special circumstances which justify the immediate assertion of the damage claims under due consideration of mutual interests.
- 4.4 Dates are considered as kept if the shipment is received by the indicated consignee on time. For deliveries including assembly or mounting, timeliness requires on time assembly or mounting and our formal acceptance.
- 4.5 The contracting party must inform us in writing or any expected delays in delivery and their reasons and of the estimated endurance of the delay.
- 4.6 If the ordered shipment or performance can no longer be accepted or used due to force majeure or industrial conflicts such as strikes or lock-out etc., we are entitled to refuse acceptance and will only reimburse futile expenses excluding any further claims.
- 4.7 Deliveries are also considered defective and not in time if required data sheets or documents have not been handed over to us.

5. Delivery, risk assumption, proof of origin

- 5.1 The correct consignee is indicated in our order unless otherwise

expressly agreed in writing. In general, shipments are to be delivered to the following address:

E-T-A Elektrotechnische Apparate GmbH
Wareneingang
Industriestraße 2-8
90518 Altdorf / Germany

Goods receiving is open from Monday through Thursday from 6 a.m. to 6 p.m. and on Friday from 6 a.m. to 3 p.m.

- 5.2 In the event of excess delivery of more than 10 % or early delivery of more than 10 calendar days we reserve the right to return the excess or early goods at the expense of the contracting party. In the event of early delivery the goods shall be stored on our premises at the expense and risk of the contracting party.
- 5.3 Regarding quantities, weights and dimensions the values established by our Goods incoming inspection are valid, subject to other proof.
- 5.4 Partial deliveries will only be accepted upon explicit agreement. When partials were agreed, the remainder has to be indicated.
- 5.5 Delivery documents and delivery notes etc. must show the order number, the date of order and the contact person in charge of the order as well as the supplied quantity and part number of every single item individually.
- 5.6 Unless otherwise expressly agreed in writing, the contracting party shall be obliged to supply only EU originated goods which meet the legal requirements of origin. The supplier has to indicate the origin and the customs tariff number, referring to the individual part numbers, for all deliveries of goods to us. The required documents have to be sent to us together with the invoice. In the event of goods originated in the EU the supplier will provide this information automatically via a long-term supplier's declaration or an individual supplier's declaration. The supplier shall inform us about any changes without delay.
- 5.7 Transportation of goods is effected at supplier's risk and expense (free Reception Desk) unless otherwise expressly agreed in writing.
- 5.8 Transport insurance will be covered by E-T-A. The agent has to issue a forwarding agent's and cartage insurance certificate.
- 5.9 In case we expressly take over the delivery costs, the contractual partner is obligated to commission the shipping company indicated in the E-T-A purchasing guidelines. In the event of non-observance or when commissioning a different forwarding agent, the co-contractor will be charged possible surcharges.

6. Packaging

- 6.1 Packaging has to be selected so as to exclude the risk of damage or loss.
- 6.2 Packaging costs will be paid by the co-contractor unless otherwise expressly agreed in writing.
- 6.3 Packaging instructions must be observed according to the E-T-A logistics guidelines.
- 6.4 The co-contractor is obliged to take back the packaging of the delivery item. Should the packaging materials nevertheless remain on our premises and cannot be used again (e.g. Composite material) and/or the disposal is not ensured by the contracting party or a commissioned third party, we reserve the right to return the packaging material or dispose of it at the expense of the contracting party.

7. Invoicing and payment

- 7.1 The co-contractor has to send one copy of the invoice; VAT shall be shown separately. All invoices have to include the complete order number,

date of order and name of contact as well as the supplied quantity and part number of every item individually.

Partial invoices, partial final invoices and final invoices have to be marked as such and have to be consecutively numbered. Invoices without any special marking will be treated as final invoices. Orderly invoices are the precondition for maturity.

- 7.2 Unless otherwise agreed, invoices for impeccable, faultless and complete deliveries and services will be settled under either of the following schemes: within 14 days upon orderly receipt of goods and invoice 3 % discount, within 21 days 2% discount, net within 30 days.
- 7.3 Deduction of discount is also permissible in case of set-off or assertion of a right of retention.
- 7.4 Payments are effected by check or bank transfer. Payment was effected in time when the check was sent off by mail on the due date or when the remittance was commissioned at the bank on the due date.
- 7.5 Payments do not represent an acknowledgment of impeccability, timeliness or completeness of deliveries or services unless we expressly state so in writing.

8. Acceptance of goods, investigation, claims

- 8.1 Goods are accepted under reservation of an identification testing, check of supplied quantity as well as of visual check of damage in transit. As soon as and as far as possible in accordance with an ordinary course of business, further tests will be run. These dimensional or functional tests will be based on a random sample size by using the »skip lot« principle. This is particularly true for deliveries which are subject to machining and treatment or which will not be put into use immediately after the acceptance date. Any deficiencies will be claimed immediately upon discovery. If we are under the obligation of immediate protest, this will be considered as timely if deficiencies are claimed within 10 work days after discovery. In case of processing similar components in large-lot production, we shall be allowed to collect and reject faulty parts without marking the individual shipments (collective rejects). Technical installations are not considered accepted before their functional fitness and performance have each been determined.

9. Warranty, post-compliance

- 9.1 In the event of a faulty delivery or performance the co-contractor is to remedy the deficiency or to make a faultless delivery within a reasonable term set by us (post-compliance). The co-contractor bears the associated expenses.
- 9.2 If supplementary performance is not or cannot be effected within the stipulated period, we may, upon our discretion, completely or partially withdraw from the contract without payment or compensation, reduce the stipulated price, or claim damages instead of performance including compensation for secondary and/or consequential losses. We are entitled to these rights without appointment of a date if the contracting party denies post-compliance or if post-compliance is unacceptable for us.
- 9.3 If the contracting party is behind der schedule with post-compliance, we may also have the defect remedied at the contracting party's expense, provided the defect has been indicated and a reasonable remedy period has been set in vain.. We may take matters in our hands without prior notice if post-compliance is impossible or denied by the contracting party or if this action is justified by our particular interests.
- 9.4 In urgent cases and where damages of a considerable extent are expected, we may remedy the defect ourselves or have the defect remedied or stock up at the contracting party's expense after prior notice.
- 9.5 The warranty period is at least two years after delivery of the goods.
- 9.6 We are entitled to recourse according to German Civil Code § 478 even if the ultimate buyer of the product is an entrepreneur, provided that the warranty period starts only upon the transfer of risk on the processor or other end-consumer. German Civil Code § 479, section 2, shall apply accordingly.
- 9.7 The statute of limitation begins anew after the remedy of defects or other post-compliance.
- 9.8 The contracting party guarantees to comply with all technical standards, in particular with the laws and regulations for accident prevention and machine safety (such as CE, GS, VDE). Furthermore the contracting

party guarantees the faultlessness in the meaning of the applicable product liability regulations and/or legislation. The contracting party also guarantees the compliance of the product(s) with the material regulations of product safety legislation irrespective of the scope of application in individual cases. The contracting party further guarantees to comply with all relevant technical and safety standards for each purpose and field of use, provided the latter have been communicated to or are known to the contracting party. Statutory rules such as End-of-life-vehicle (2000/53/EC) and Waste of Electrical and Electronic Equipment (EC directives WEEE and RoHS) exclude the putting into market of certain materials in defined applications. The contracting party shall undertake that all parts/products he supplies do not hold any banned substances, nor will they hold them in future. Furthermore the contracting party shall undertake to provide a safety data sheet in written and electronic form as a word file before the first delivery for the attention of the person in charge in the event that the supplied product contains hazardous substances or hazardous preparations as per Chemicals Act § 19 (2). This sheet has to meet the currently valid standard for safety data sheets.

- 9.9 The contracting party is to indemnify us from all claims including claims emerging from secondary or consequential losses as well as claims according to product liability regulations and legislation asserted against us by any third party and based on the product or on the behaviour of the contracting party (warranty claims, product liability etc.). The co-contractor has to conclude and furnish proof of sufficient product liability insurance at his own expense. This applies in particular to imports from non-EU countries.
- 9.10 In order to ensure the quality and timely delivery of ordered products, our authorised representatives, regulating authorities as well as our customers shall be entitled to visit the production administrative and storage facilities of the contracting party at any time and without prior announcement during the regular trading hours, unless there are any urgent adverse operational reasons.
- 9.11 Unless otherwise agreed in writing, the contracting party bears the costs for all material testing required or to be certified.
- 9.12 Faulty deliveries are returned at the contracting party's expense and risk.

10. Passing of Ownership

The supplied goods shall into E-T-A's unlimited ownership upon payment. Further reservation of title, in particular the extended reservation of title, shall be excluded.

11. Drawings, samples, tools/moulds

- 11.1 Drawings, samples, models, data or any other documents made available to the contracting party remain our property, unless otherwise agreed in writing. All further existing rights, in particular copyrights, remain with us. Should any tools/moulds or other parts etc. be passed on to a third party upon our prior consent, the third party is to be informed of our property right in writing.
- 11.2 All drawings, samples, models, data or documents must be returned to us immediately after fulfilment of the order, unless otherwise expressly agreed in writing. This also applies in the event of premature termination of business relations or of partial or complete non-execution of the order for whatever reasons.
- 11.3 Without our explicit prior written consent, no copies may be made or kept of any documents mentioned in 11.1. The documents must not be used for any proprietary or similar purposes of the contracting or any third party and must not be disclosed or handed over to any third party.
- 11.4 In as much as protective rights are concerned in relation to the order the contracting party agrees to use these rights only internally within the framework of this contract and its purposes. In any case the contracting party is only entitled to a simple, non-exclusive right of use limited to the duration of this contract. In cases of joint copyright, the contracting party refrains from all corresponding rights. The payment according to the contract compensates for all claims.
- 11.5 The contracting party is responsible to ensure that none of the delivered goods or services violates any patent, utility model, trademark, license or any other rights. To this effect, the contracting party agrees to indemnify us from any third party claims. Any damages or charges incurred in this respect must be compensated by the contracting party.

11.6 Tools, moulds etc. which E-T-A provides for its productions of the ordered goods remain our property. E-T-A shall be the owner of any tools, moulds, etc. ordered by us or purpose-built for deliveries to us. The supplier ensures safekeeping of the tools free or charge for E-T-A which replaces the tool transfer.

Such tools, moulds etc. must be marked as our property, stored separately and administered free of charge as well as insured at the contracting party's expense against lack of usability, damage and destruction.

11.7 After termination of the contract, all tools, moulds etc. are immediately to be returned to us upon request. Fully paid tools, moulds etc. must be surrendered to us. Non-paid tools, moulds etc. must be offered to us against adequate payment or final payment or we must be offered direct ownership.

11.8 If there is no request for return according to para 11.7, the tools, moulds etc. must be stored for us free of charge for a period of five years from the execution of the last order. This also applies to cases where no production or supply order has become effective. When the period of custody ends, para 11.7 applies accordingly. Any scrapping or other utilisation requires our prior written consent.

11.9 If the contracting party applies for the opening of insolvency proceedings with effect on its assets, or if such proceedings are opened, or if the contracting party, through its own fault, fails to fulfill its contractual obligations, we may demand the surrender of the tools, moulds, etc. In such cases the contracting party is obliged to surrender the tools etc. without delay. Any payment obligation remains unaffected and does justify retention.

11.10 In all cases, the contracting party is obliged to properly maintain, service and store said tools, moulds etc. at its expense, unless otherwise agreed in writing.

12. Provision of material

12.1 Any materials or parts provided by us remain our property, irrelevant of the state of production. Products manufactured therewith by the contracting party are our property which is kept for us and stored exempt from charges by the contracting party. Upon request, the contracting party must surrender the products against proper equalisation of value. Provided material must be marked as our property, separately stored and administered free of charge.

12.2 Provided material must only be used for our orders.

12.3 The parties agree that E-T-A shall in all cases be the immediate owner of new or remodelled, processed or mixed/blended goods originating from material owned by us.

12.4 The contracting party shall store all our property exempt from charges and bear all associated risks of destruction, loss and damage.

13. Sub-contracting of orders

13.1 Orders must not be subcontracted to any third party without our prior written consent. We will give our consent provided that there are not relevant adverse reasons.

13.2 In the event of any unauthorised subcontracting of orders, E-T-A is entitled to claim compensation instead of performance or to completely or partially withdraw from the contract.

14. Retention, set-off

Retentions rights can only be claimed if based on non-appealable or undisputed demands. The same applies for set-offs claimed by the contracting party. In particular, stipulated deliveries must not be retained due to other claims in dispute.

15. Secrecy

15.1 The contracting party is obliged to consider all orders and the particulars linked thereto as a business secret, unless otherwise agreed in writing. This applies also to the time after termination of the business relations.

15.2 The contracting party is only authorised to reference to the existing business relations with us in advertising or public relations material etc. upon our explicit prior written consent.

16. Compliance

The supplier undertakes to comply with the Code of Conduct as established by the Germany Association of Procurement and Logistics (BME - Bundesverband für Materialwirtschaft und Einkauf), which has been incorporated in E-T-A's corporate policy. This code of conduct is available on our corporate website www.e-t-a.de.

17. Place of fulfilment

Unless otherwise agreed in writing the place of fulfilment of all obligations arising from the contract shall be 90518 Altdorf.

18. Law of the Federal Republic of Germany

This contract including any future privity of contract is subject exclusively to the Law of the Federal Republic of Germany, excluding the UN Sales Convention.

19. Place of jurisdiction

The courts of Nuremberg are responsible for all disputes arising from the contract or in connection with its conclusion and effectiveness.

20. Severability clause

Should any provision in this contract be or become legally void, whether in total or partially, this shall not impair the effectiveness of the remaining contract. In such case, however, the void provision shall be replaced by a legally admissible provision which corresponds to or comes as near as possible to the originally intended economic purpose. The same is valid for gaps of regulation.

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