

## General Terms and Conditions of Purchase by Frauscher Sensonic GmbH

### I. SCOPE

1. These General Terms and Conditions of Purchase apply exclusively; Suppliers' terms and conditions that conflict with or deviate from these General Terms and Conditions of Purchase shall not be recognized by Purchaser, unless Purchaser expressly consented to their validity in writing
2. Purchaser's General Terms and Conditions of Purchase shall also apply to Supplier's future supplies and services.

### II. PURCHASE ORDERS, WRITTEN FORM

1. Purchase orders shall be deemed accepted if Supplier does not object within 10 working days after purchase order date.
2. Verbal agreements, orders and delivery schedules as well as changes and amendments shall require written form.

### III. FAIR COMPETITION, TRADE CONTROL AND COMPLIANCE

1. Supplier shall observe the rules of fair competition and act towards Purchaser in good faith.
2. Supplier shall comply with U.S., EU, and any other applicable economic sanctions and export control laws, including without limitation, the laws administered or enforced by the U.S. Department of Treasury Office of Foreign Assets Control, the U.S. Department of State, the U.S. Department of Commerce, and the European Union. In the course of fulfilling its obligations and/or providing services under the Contract, Supplier shall provide confirmatory details at Purchaser's request.
3. Supplier must be compliant with regulations in force in its territory in matters of health, safety and the environment.
4. Supplier undertakes not to directly or indirectly, offer, promise, grant or solicit any undue payments or other advantage in the course of fulfilling its obligations and/or providing services under the Contract. Supplier shall assure that all employees, officials and employees of their private partners shall comply with these provisions.
5. Supplier declares that it has not exposed itself to the crimes of undeclared labour, the illegal subcontracting or illegal lending of labor, the employment of aliens without work permits, human trafficking or foreign labour trafficking.
6. Supplier undertakes in particular to provide its own employees with safe and healthy working conditions, taking account in particular of statutory and regulatory standards in force concerning health, safety and non-discrimination.
7. Supplier shall indemnify, protect and hold Purchaser, its agents, customers or other suppliers harmless against any claims, losses, profits, royalties, damages and expenses, including actual attorney fees, which may arise out of any claim of infringement of any nature or unfair competition or otherwise based on any of the above, including any settlement thereof, including such claims where Supplier has supplied only part of the goods or services at issue. The Purchaser may be represented and actively participate in any suit or proceeding arising out of any such claim and Supplier shall pay all costs of such representation. If the sale or use of the goods is enjoined, restricted or subject to any fee or royalty, or Purchaser reasonably believe it will be, Supplier shall immediately procure a royalty-free right for Purchaser, its customers, successors and assigns, to continue manufacturing, selling, servicing, repairing,

marketing and using the goods, in addition to all of Supplier's other obligations hereunder.

### IV. DELIVERY, PASSAGE OF RISK, FORCE MAJEURE

1. Unless otherwise specified, delivery shall comply with INCOTERMS 2010, i.e. DDP to delivery address.
2. If Supplier accepted installation or assembly and unless otherwise agreed, Supplier shall support all cost inherent to such activity.
3. Partial deliveries shall be not admissible, unless expressly consented by Purchaser.
4. In regard to quantities, weights and measurements, except for other means of confirmation, the values determined upon receiving inspection of the goods.
5. If schedules agreed are not met, statutory provisions shall apply.
6. If Supplier recognises that he is or shall be unable to meet the deadlines for manufacture, provision of material, delivery schedule or similar conditions, he must advise Purchaser immediately.
7. Unreserved acceptance of late deliveries or services shall not constitute a waiver of claims to which Purchaser is entitled due to such late deliveries or services. This shall apply until full payment of compensation due to Purchaser.
8. Force majeure and events beyond Purchaser's control shall entitle Purchaser – notwithstanding further legal claims of Purchaser – to withdraw entirely or partly from the Contract, if due to such circumstances Purchaser shall loose interest in the service.

### V. PRICES, PAYMENTS, INVOICING

1. Unless otherwise declared, prices shall comply with INCOTERMS 2010, i.e. DDP to delivery address, including packing, but without turnover tax.
2. Unless otherwise declared, invoices shall be paid within 14 days at 2 % discount or within 30 days without discount after invoice is due and both invoice as well as delivery or service were received. Payment shall be subject to verification of invoice.
3. Purchaser shall process invoices only if invoices state the order reference and part references – in compliance with Purchaser's order data. Supplier shall be liable for the consequences resulting from breach of such obligations, unless such breach is not imputable to him.
4. Purchaser shall be entitled to settlement and retention within the scope of the law. Assignment of claims against Purchaser shall require Purchaser's prior written consent.

### VI. PROVISION, NON-DISCLOSURE

1. Materials, parts, recipients and special packing provided by Purchaser remain Purchaser's property. They may only be used as specified. Purchaser shall process materials and assemble parts. Supplier agrees that Purchaser shall become, in the proportion of the value of the materials provided to the value of the overall product, co-owner of the products resulting from the use of the materials and parts provided by Purchaser, to the extent that they are stored by Supplier.
2. Supplier shall not disclose to third parties any business or technical information provided by Purchaser, if and to the extent to which such information is demonstrably not a matter of common knowledge. Such information is Purchaser's exclusive property and Purchaser reserves all rights. Without Purchaser's prior and written consent such information – except for contract services for

Purchaser – shall not be copied or used commercially. Upon demand Supplier shall return immediately and in full or destroy all information provided by Purchaser (including, if applicable, copies or notes made) as well as any equipment handed over as a loan.

3. Products manufactured on the basis of Purchaser's documents such as drawings, mock-ups, procedures or similar, may not be used for own purposes nor offered or delivered to third parties.

#### **VII. RIGHTS IN CASE OF DEFECTS**

1. Goods or services shall be accepted under reserve that they are free of defects, if and to the extent to which such is convenient for the normal course of business. This shall include humidity, completeness and perceivable defects. Furthermore shall Supplier waive any objection against late notification of defects.
2. The legal provisions regarding material defects and defects of title shall apply without restrictions, unless otherwise specified.
3. In emergency situations, namely defence of immediate danger or prevention of major damage, Purchaser shall be entitled to remedy on account of Supplier or order a third party to remedy.
4. Supplier shall be responsible for all cost resulting from defective delivery of the subject of the contract, namely transportation, travel, work, material expenses and such expenses that exceed the normal scope of investigation expenses.
5. If Purchaser has to recall goods manufactured and/or sold by Purchaser due to defects in the subject of the contract supplied by Supplier or if Purchaser as a result of this suffered reduction in the purchase price or if Purchaser was held liable in any way as a result of this, Purchaser reserves the right of regress against Supplier, in which case no period of time, as normally necessary, has to be set for Purchaser's rights resulting from such defects.
6. In the event of regress Purchaser shall be entitled to invoice the Supplier for the relevant cost and expenditure incurred in consequence of the defectiveness of goods and services, which Purchaser had to bear in regard to his Customer.
7. If within six months after passage of risk material defects are detected, it shall be presumed that such defect was already present at the passage of risk, unless such presumption is incompatible with the nature of the subject matter or with the nature of the defect.

#### **VIII. PRODUCT LIABILITY**

1. In the event that a third party makes a claim against Purchaser on the ground of product liability, the Supplier shall be obliged to hold Purchaser harmless from all such claims, if and to the extent such damage was caused due defect of the subject of the contract supplied by Supplier and – in cases of direct liability – where Supplier is liable to third parties in his own right. To the extent that the cause of defect is Supplier's liability, he shall have the burden of proof.
2. In such events Supplier shall bear all cost and expenditure, including the cost of possible legal actions or recall actions. For the rest legal provisions shall apply.

#### **IX. LIMITATION**

1. The limitation for material and legal defects shall be two years. Limitation shall start at the end of year in which the claim occurred.
2. In case of recourse, limitation shall start not earlier than 2 months after the date Purchaser satisfied the claims of the Client, however, not later than 5 years of delivery by Supplier.
3. After remedy (elimination of defects or delivery of defect-free item), limitation shall restart after acceptance of remedy or new delivery.

#### **X. PLACE OF PERFORMANCE, LEGAL VENUE**

1. Place of performance for all obligations resulting from the business relation or individual contract shall be 4774 St. Marienkirchen, Austria.
2. Legal venue shall be, at Purchaser's discretion, Purchaser's domicile or the place of jurisdiction of Purchaser. This shall also apply to disputes regarding writs of sciens facias, bill of exchange and check issues.

#### **XI. FINAL PROVISIONS**

1. If individual provisions of these General Terms and Conditions of Purchase or other contract conditions become entirely or partly invalid, the remaining provisions shall remain valid. The Parties shall replace invalid provisions by another valid provision, which comes closest to serving the economic purpose pursued.
2. All legal relations between Customer and Supplier shall be subject to the legislation of the Republic of Austria and waive the UN Sales Convention (CISG).