

General Terms and Conditions of Supply

for Products and Services of the Company AutomatisierungsTechnik Voigt GmbH

June 2015

I. General Provisions

1. The legal relationships between the Supplier (AutomatisierungsTechnik Voigt GmbH, Heilbronner Str. 17, D-01189 Dresden) and Purchaser (Customer) in connection with the supplies and/or services provided by the Supplier (hereinafter referred to as: Supplies) shall be solely governed by the present General Terms and Conditions of Supply (hereinafter referred to as: GTC). They shall also apply to any and all contracts concluded in the future between Supplier and Purchaser. The GTC will not apply insofar as the contracting parties have agreed upon a provision deviating therefrom in the individual case. General terms and conditions of business of the Purchaser shall apply only insofar as the Supplier has given his express consent thereto in writing.
2. The Supplier reserves without limitation his rights of ownership and exploitation of copyright in respect of cost estimates, drawings and other documents (hereinafter referred to as: Documents). The Documents shall be made available to third parties only after previous consent given by the Supplier and, if the contract was not awarded to the Supplier, must be promptly returned to him upon request. Sentences 1 and 2 shall apply mutatis mutandis to the Documents of Purchaser; these may, however, be made available only to third parties to whom the Supplier may rightfully transfer Supplies.
3. The Purchaser has the non-exclusive right to use standard software and firmware with the agreed performance features in unchanged form on the equipment agreed. The Purchaser is allowed to create a backup copy of standard software without any express agreement.
4. Partial deliveries are permitted insofar as they are reasonable for the Purchaser.
5. The term "Claims for damages" used in the present GTC also included claims for compensation of futile expenses.

II. Quotations and Contents of Contract

1. Unless otherwise stipulated, the quotations of the Supplier are always without engagement, namely with regard to any and all data specified including reimbursement. A contract is concluded exclusively upon signature of the contract document by both contracting parties. The present GTC shall also apply to the extra services offered which go beyond the scope of the Supplier's contract and which will be provided on the basis of a separate contractual agreement.
2. Modifications of and amendments to the contract shall require the written confirmation of the Supplier. Oral statements of the Supplier's employees are non-binding in any case.
3. Insofar as other services of third parties are proposed by the Supplier, a contractual agreement will be made exclusively between the Customer and the third party. The procurement of such services shall be regarded only as recommendations without commitment.
4. The Supplier shall be entitled to subcontract services assigned to him, in particular, he may involve other accordingly authorised parties as agents to perform the contract as far as the Supplier's personal responsibility remains intact and to place orders with them on behalf and for the account of the Supplier.

III. Duties to Co-Operate in Installations

1. The Customer undertakes to support the Supplier in the provision of his services fulfilment to the extent required and, in particular, to provide him with the necessary information and documentation. No liability will be assumed for errors due to erroneous or incomplete presentation of the facts of the case and/or false or missing information/documentation.
2. Insofar as the Customer does not fulfil his duties to co-operate, the Supplier has the right to request him to co-operate by granting an appropriate period of grace. If, nevertheless, the Customer does not fulfil his duties to co-operate, the Supplier shall be entitled to withdraw from the contract and to claim compensation for the expenses incurred to him so far.
3. The Supplier's services are principally provided during the regular business hours of the Customer. As an exception, the Supplier's services can also be provided outside the regular business hours; the Customer shall take care that the Contractor can also provide his services outside the regular business hours after agreement with the Customer.
4. The Customer shall grant the Supplier unrestricted access to his premises insofar as this is required for the provision of services.
5. The Customer is aware of the fact that the Supplier shall not have the right to issue directions to his employees. Therefore, the Customer shall undertake the implementation of the measures proposed by the Supplier on his own responsibility. Further, the Customer shall arrange for that his employees will support the Supplier in the provision of his services, as far as required.
6. The Customer's duties to co-operate are free of charge for the Supplier.

IV. Prices, Terms of Payment, Setoff, Non-Assignment Clause

1. The prices shall be understood ex works plus packaging and forwarding expenses as well as the legally valid VAT.
2. Once the Supplier has undertaken the installation or assembly and if it has not been otherwise agreed, the Purchaser shall bear, further to the remuneration agreed, any and all required additional expenses such as travelling and transport costs as well as allowances.
3. Payments shall be made free paying agent of the Supplier within 7 (seven) days from invoice date without any deduction.
4. The Purchaser may set-off payments only against such claims which are undisputed or have been legally established. The Customer shall not be entitled to assign claims arising from this contract to third parties without the Contractor's consent. The same shall apply to the assignment of contract as a whole.
5. Payment orders, cheques and bills of exchange are only accepted upon special agreements and only on account of payment invoicing any and all collection and discount charges.
6. If the Customer is in default with the payment of remuneration, the Contractor shall have the right to withdraw from the contract after granting an appropriate period of grace or raise a claim for damages due to non-fulfilment. Subject to the assertion of claims for further damages, default interests shall be payable at the statutory rate in the event of default in payment.

V. Extended Retention of Title

1. The items of Supplies (retained goods) remain the property of the Supplier until the Purchaser has satisfied any and all claims which the Supplier can make on him under the terms of the business relationship. If the combined value of all security interests of the Supplier exceeds the amount of all secured claims by more than 20 %, the Supplier shall release a corresponding part of the security interests if so requested by the Purchaser; the Supplier shall have the right to choose between various security interests for release.
2. During the existence 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 business and only on the condition that the reseller receives payment from his customers or makes the reservation that the ownership will be transferred to the Customer only if the Customer has fulfilled his payment obligations.

3. In the event that the Purchaser should resell retained goods, he hereby assigns all his future claims arising from the resale against his customers, along with all subsidiary rights – including any claims relating to the payment of balance –, to the Supplier by way of security without the need for any further special declarations. If the retained goods are resold together with other goods without having agreed on an individual price for the retained goods, the Purchaser will assign that part of the overall price demand to the Supplier which corresponds to the price of the retained goods invoiced by the Supplier.
4.
 - a. The Purchaser shall be permitted to process the retained goods or to mix or to combine them with other goods. Processing shall take place for the Supplier. The Purchaser shall keep the new item created thereby with the due diligence of a prudent businessman. The new item shall be considered as retained goods.
 - b. The Supplier and Purchaser shall even now agree that if the retained goods are combined or mixed with other goods that do not belong to the Supplier, the Supplier shall be granted co-ownership in the new item at the proportionate amount which results from the ratio of the value of the combined or mixed retained goods with regard to the value of the remaining goods at the date of the performance of combining or mixing activities. The new item shall be considered insofar as retained goods.
 - c. The provision relating to the assignment of claims according to Clause 3 shall also apply to the new item. Said assignment, however, shall only cover the amount corresponding to the value of the processed, combined or mixed retained goods invoiced by the Supplier.
 - d. If the Purchaser combines the retained goods with real estate or movable properties, he shall also assign to the Supplier without requiring any further special declarations his demands which he is entitled to as compensation for the combination with all subsidiary rights for security purposes in the amount of the ratio of the value of the combined retained goods to the other combined goods at the date of combination.
5. Until revocation, the Purchaser shall be authorised to collect assigned claims arising from the resale. In the event of an important reason, in particular, delay in payment, suspension of payment, opening of insolvency proceedings, protest of a bill or justified evidences of overextension or imminent inability to pay of the Purchaser, the Supplier shall have the right to revoke the collection authorisation of the Purchaser. Moreover, the Supplier shall be entitled, after prior announcement and under observation of a reasonable notice period, to disclose the assignment of title, to explain the assigned claims, and to request disclosure of the assignment of title by the Purchaser to the Customer.
6. In the event of attachments, seizures or other dispositions or interventions of third parties, the Purchaser shall promptly notify the Supplier thereof. In the event of a substantiated legitimate interest, the Purchaser shall promptly provide the Supplier with all information required to assert his rights towards the Customer and hand-over the necessary documents.
7. If the Purchaser is in breach of his duties, in particular, by defaulting in payment, the Supplier shall also be entitled to cancellation and to take the goods back after the unsuccessful expiry of an appropriate deadline set to the Purchaser; the statutory provisions concerning the dispensability of setting a deadline remain unaffected hereby. The Purchaser shall be obliged to surrender the goods. Withdrawal and/or enforcement of the retention of title or seizure of retained goods by the Supplier shall not constitute withdrawal from the contract unless this has been expressly declared by the Supplier.

VI. Deadlines for Deliveries; Supplier's Default

1. Deadlines and dates stated in the contract are binding only if they have been confirmed as binding expressly and in writing.
2. The observance of deadlines for deliveries supposes the prompt receipt of any and all documents to be provided by the Purchaser, required authorisations and releases, in particular, of plans as well as the observance of the agreed terms of payment and other obligations by the Purchaser. If these prerequisites are not fulfilled in time, then the deadlines are extended reasonably; this does not apply if the delay is attributable to the Supplier.
3. If the non-observance of deadlines is attributable to:
 - a. force majeure e.g. war, acts of terror, riot or similar events (e.g. strike, lockout),
 - b. virus and other attacks of third parties to the Supplier's IT-system insofar as they took place despite the observance of usual care and diligence for precautionary measures,
 - c. obstacles due to German, US as well as other applicable national, EU or international regulations of foreign-trade legislation or due to other circumstances the Supplier is not responsible for, or
 - d. untimely or improper delivery by the Supplier, energy or raw-material lacks,
the deadlines will be extended accordingly.
4. The Purchaser can claim damages for default from the Supplier only if gross negligence or intent can be imposed on him. If the Supplier is then in default, the Purchaser shall – as far as he satisfactorily proves that he has suffered damage therefrom – be entitled to claim a compensation in the amount of 0.5% each per full week of delay, however, maximum 5% of the price for the part of deliveries that could not be used for the intended purpose due to the delay.
5. Both compensation claims on the part of the Purchaser for defaults in delivery and compensation claims in lieu of performance which exceed the limits stipulated in Clause 3 shall be excluded in all instances of delayed delivery, even after the expiry of any delivery deadline set to the Supplier. This shall not apply as far as liability exists in cases of intent, gross negligence or injury of life, body or health. Within the framework of statutory provisions, the Purchaser may withdraw from the contract only if the delay of delivery is attributable to the Supplier. A change in the burden of proof to the disadvantage of the Purchaser is not associated with the provisions given above.
6. Upon the Supplier's request, the Purchaser is obliged to state with a reasonable period of time whether he withdraws from the contract as a result of the delay of delivery of whether he insists on the delivery being effected.
7. If, upon the Purchaser's request, shipment or delivery are delayed by more than 1 (one) month from the notification date of readiness for shipment, the Purchaser may be charged a warehousing fee amounting to 0.5% of the price of the delivery items, however, up to a maximum of 5% for each month begun. The contracting parties are free to prove higher or lower warehousing costs.

VII. Transfer of Risk

1. With freight paid delivery, the risk will also be passed to the Purchaser as follows:
 - a. in case of delivery without erection or installation if the delivery was brought to shipment or picked up. At the request and cost of the Purchaser, the delivery shall be insured by the Supplier against usual transport risks;
 - b. in case of delivery including erection or installation on the day of acceptance in the own factory or, if so agreed, after fault-free and successful trial run.
2. If the dispatch, delivery, commencement, performance of erection or installation, acceptance in the own factory or trial is delayed for reasons attributable to the Purchaser, or the Purchaser delays the acceptance for other reasons, the risk shall be transferred to the Purchaser.

VIII. Erection and Installation

- The Purchaser shall bear the costs for and provide timely:
 - all earth, construction and other ancillary work outside the Supplier's trade, including the necessary skilled and unskilled labour, construction materials and tools;
 - equipment and consumables required for installation and start-up, such as scaffolds, hoisting gears and other devices as well as fuels and lubricants;
 - energy and water at the site of use, including connections, heating, and illumination;
 - at the place of installation, enough suitable, dry and lockable space of appropriate size for storing machine parts, equipment, materials, tools etc. as well as appropriate work and break rooms for assembly personnel with suitable sanitary equipment; besides, the Purchaser has to take the same measures in order to protect the Supplier's property and the assembly personnel at erection site the Purchaser would take to protect his own property;
 - protective clothing and protective devices which are necessary due to special circumstances prevailing at the place of installation.
- Prior to commencement of installation work, the Purchaser is obliged to provide without special request all necessary information regarding the location of concealed power, gas or water lines or similar installations as well as required static information.
- Prior to commencement of erection or installation work, the provisions and items required for commencing the work shall be at the place of erection or installation, and all preliminary work must have progressed so far, prior to commencement of setup, that erection or installation can be started according to agreement and performed without any interruption. Access roads and erection or installation site must be levelled and cleared.
- Should erection, installation or start-up be delayed for reasons the Supplier is not responsible for, the Purchaser shall bear the costs for waiting time and additionally required travels of the Supplier or assembly personnel to a reasonable extent.
- The Purchaser shall provide the Supplier with weekly information on the duration of the working hours of assembly personnel and shall immediately certify the completion of erection, installation or start-up.
- Should the Supplier request acceptance of delivery after completion, the Purchaser shall be obliged to do so within two weeks. Acceptance shall be deemed effected if the Purchaser lets the two-week period pass or if the delivery – after completion of an agreed test phase, as the case may be – has been put into operation.

IX. Acceptance

The Purchaser must not refuse acceptance of deliveries due to insignificant defects.

X. Material Defects

The Supplier shall be liable for material defects as follows:

- All those parts or services evincing a material defect must be remedied, replaced or re-delivered free of charge at the Supplier's discretion, to the extent that the cause of defects was already obvious at the time of transfer of risk.
- Claims for subsequent performance shall become time-barred within 12 months from the start of the statutory period of limitation; the same shall apply to withdrawal from the contract and demands for reductions. This period of limitation shall not apply insofar as the law pursuant to §§ 438 Para 1 No. 2 (building and building materials), 479 Para 1 (right of recourse) and 634a Para 1 No. 2 (building defects) GCC prescribed longer periods and in case of intent, fraudulent concealment of the defect as well as non-compliance with a guarantee of quality. The statutory provisions concerning suspension of expiration, inhibition and recommencement of limitation periods shall remain unaffected.
- The Purchaser must provide notifications of defects in writing without undue delay.
- In case of notifications of defects, the payments of Purchaser shall be withheld to an extent which is in reasonable proportion to the defects of quality occurred. The Purchaser may withhold payments only if the legitimacy of the notification of defects given is beyond any doubt. The Purchaser shall not be entitled to withhold payments if his claims for defects have become time-barred. If the notification of defects was unjustified, the Supplier shall have the right to demand the reimbursement of expenses incurred to him from the Purchaser.
- The Supplier shall be given the opportunity for subsequent performance within a reasonable period of time.
- If the subsequent performance fails, the Purchaser can – regardless of possible claims for damages pursuant to Clause 10 – either withdraw from the contract or reduce the remuneration.
- Claims for defects do not exist in case of minor deviations from the agreed quality, minor impairment of usability, natural wear and tear or damages incurred after passing of risk due to incorrect or negligent handling, excessive loads, unsuitable operating resources, faulty construction work, unsuitable building subsoil or because of special external influences which are not supposed in the contract as well as in case of non-reproducible software errors. In case of improper modifications or repair work effected by the Purchaser or third parties, no claims for defects shall exist for such and the results thereof.
- Claims asserted by the Purchaser for costs necessary for the purpose of subsequent performance, in particular, transport, travel, labour and material costs are excluded to the extent that costs are increased because the delivery item has been moved subsequently to a different location from the Purchaser's premises, unless such a move complies with its intended purpose of use.
- Claims for recourse on the part of the Purchaser against the Supplier pursuant to § 478 GCC (recourse of the contractor) exist only insofar as the Purchaser has not reached agreements with his customer beyond the legal claims for defects. Moreover, No. 8 shall apply mutatis mutandis to the scope of the right of recourse the Purchaser has against the Supplier pursuant to § 478 Para 2 GCC.
- Claims for damages of the Purchaser because of a material defect are excluded. This shall not apply to fraudulent concealment of the defect, non-compliance with a guarantee of quality or with cardinal obligations, injury to life, body or health as well as intentional or grossly negligent breach of duties on the part of Supplier. The above regulations do not constitute any change in the burden of proof to the disadvantage of the Purchaser. Any additional or other claims of the Purchaser than those governed in this Article X because of a material defect are excluded.

XI. Industrial Property Rights and Copyrights, Defects of Title

- Unless otherwise agreed, the Supplier is obliged to carry-out the delivery solely in the country of the place of delivery, free of commercial trademark rights and copyrights of third parties (hereinafter referred to as: property rights). If a third party asserts a justified claim against the Purchaser based on the infringement of property rights with respect to deliveries effected by the Supplier and used in conformity with the contract, the Supplier shall be liable to the Purchaser within the time period set forth in Article X No. 2 as follows:
 - At his own discretion and expense, the Supplier shall acquire the right to use the property rights with respect to the deliveries concerned, modify them so that the property right is not infringed any more or replace them. If this is not possible for the Supplier under reasonable conditions, the Purchaser shall be entitled to withdraw from the contract or to reduce the remuneration pursuant to the applicable statutory provisions.
 - The Supplier's liability to pay damages shall be governed by Article XIV.

- The above obligations of the Supplier shall apply only if the Purchaser immediately notifies the Supplier in writing of any such claim asserted by the third party, does not concede the existence of an infringement and leaves all defensive measures and settlement negotiations to the Supplier's discretion. If the Purchaser suspends the use of delivery for reasons or minimising damages or other important reasons, he undertakes to inform the third party that the suspension of use does not constitute any acknowledgement of an infringement of property right.
- Claims of the Purchaser are excluded insofar as he is responsible for the infringement of property right.
- Claims of the Purchaser are further excluded insofar as the infringement of property right is caused by special stipulations of the Purchaser, by an application which was not foreseeable by the Supplier or due to the fact that the delivery is modified by the Purchaser or used together with products not delivered by the Supplier.
- In the event of infringements of property rights, the provisions of Article X No. 4, 5 and 9 shall apply mutatis mutandis to the claims of the Purchaser governed in No. 1 a).
- Should other defects of title arise, the provisions of Article X shall apply mutatis mutandis.
- Further or other claims than those provided for in this Article XI of the Purchaser against the Supplier and his agents due to a defect in title are excluded.

XII. Proviso of Performance

- The performance of contract is subject to the proviso that there are no impediments arising out of German, US as well as other applicable national, EU or international foreign trade legislation as well as no embargos or any other sanctions.
- The Purchaser undertakes to provide any and all information and documents required for export, transfer, and import.

XIII. Impossibility; Contract Adjustment

- To the extent the delivery is impossible the Purchaser shall be entitled to claim damages except the impossibility is attributable to the Supplier. However, the claim for damages of the Purchaser shall be confined on 10% of the value of the part of delivery which cannot be used for the intended purpose due to the impossibility of performance. This restriction shall not apply as far as liability is assumed in cases of intent, gross negligence or injury to life, body or health; a change in the burden of proof to the disadvantage of the Purchaser is not connected thereto. The Purchaser's right to withdraw from the contract remains unaffected.
- Insofar as events pursuant to Article VI No. 3 a) through c) considerably affect the economic importance or the content of delivery or exercise a major influence on the Supplier's operations, the contract shall be reasonably revised in compliance with the principle of good faith. Insofar as this is not economically justifiable, the Supplier shall have the right to withdraw from the contract. The same applies if required export licenses are not granted or cannot be used. If he intends to exercise this right of withdrawal, he must notify the Purchaser thereof without undue delay after realising the significance of the event even where an extension of the delivery period has previously been agreed with the Purchaser.

XIV. Other Claims for Damages

- Unless otherwise provided for in the present GTC, any claims for damages the Purchaser may have, regardless of the legal grounds, especially due to a breach of duties arising from the contractual obligation and tort shall be excluded.
- This does not apply where liability is legally assumed:
 - pursuant to the Product Liability Act;
 - in cases of intent;
 - in cases of gross negligence of owners, legal representatives or executive officers;
 - in cases of fraud;
 - upon non-compliance with a guarantee assumed;
 - due to culpable injury of life, body or health; or
 - due to culpable breach of material contractual obligations.However, the claim for damages for the breach of material contractual obligations is limited to the contractually typical foreseeable damage insofar as no other case than those mentioned above exists.
- A change in the burden of proof to the disadvantage of the Purchaser is not associated with the provisions given above.

XV. Legal Venue and Applicable Law

- If the Purchaser is a fully qualified merchant, the exclusive place of venue for all disputes arising directly or indirectly from the contractual relationship shall be the Supplier's place of business. However, the Supplier shall also have the right to sue at the Purchaser's place of business.
- This contract including its interpretation is exclusively subject to German law with exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).

XVI. Final Provisions

- Amendments of and supplements to these Terms and Conditions must be made in writing and shall be expressly marked as such.
- Should one or more of the provisions of these General Terms and Conditions be or become invalid, either in whole or in part, the remaining provisions remain unaffected thereby. The parties undertake to replace the invalid provisions immediately with valid ones.