

General Terms & Conditions of Purchase Hilscher Gesellschaft für Systemautomation mbH

§ 1 General, Scope of Application

These General Terms and Conditions of Purchase shall apply to all business relations with our business partners and suppliers if the Seller is an entrepreneur (§14 BGB), a legal entity under public law or a special fund under public law. The Terms and Conditions of Purchase shall apply in particular to contracts for the sale and/or delivery of movable goods (hereinafter also referred to as: goods), irrespective of whether the Seller manufactures the goods itself or purchases them from suppliers. The Terms and Conditions of Purchase shall apply in their respective version as a framework agreement also to future contracts for the sale and/or delivery of movable goods with the same Seller, without our having to refer to them again in each individual case. These Terms and Conditions of Purchase shall apply exclusively. Deviating, conflicting or supplementary general terms and conditions of the Seller shall only become part of the contract if and to the extent that we have expressly consented to their application in writing. This requirement of consent shall apply in any case, for example even if Hilscher accepts the deliveries of the supplier without reservation in knowledge of the supplier's general terms and conditions. Individual agreements made with the Seller in individual cases (including collateral agreements, supplements and amendments) shall in any case have priority over these Terms and Conditions of Purchase. A written contract or our written confirmation shall be authoritative for the content of such agreements. Legally relevant declarations and notifications to be made to us by the Seller after conclusion of the contract (e.g. setting of deadlines, reminders, declaration of withdrawal) must be made in text form to be effective. References to the applicability of statutory provisions shall only have clarifying significance. Therefore, even without such clarification, the statutory provisions shall apply unless they are directly amended or expressly excluded in these Terms and Conditions of Purchase.

§ 2 Conclusion of contract

The Supplier shall point out obvious errors in the order to Hilscher for the purpose of correction before acceptance; otherwise the contract shall be deemed not to have been concluded. The supplier is obliged to confirm Hilscher's order in writing within a period of 5 days or to execute it without reservation by dispatching the goods (acceptance).

§ 3 Delivery Time and Delay in Delivery

If the delivery time has not been specified in the order and has not been agreed otherwise, it shall be 2 weeks from the conclusion of the contract. The supplier is obliged to inform Hilscher immediately in writing if he is not likely to be able to comply with agreed delivery times - for whatever reasons. If the Supplier is in default, Hilscher may - in addition to further legal claims - demand a lump-sum compensation for the damage caused by the delay in the amount of 0.5% of the net price per completed calendar week, but in total not more than 3% of the net price of the goods delivered late. Hilscher reserves the right to prove that Hilscher has suffered a higher damage. The supplier reserves the right to prove that Hilscher has not suffered any damage at all or that the damage is significantly lower.

§ 4 Performance, Delivery, Transfer of Risk, Default of Acceptance

Without Hilscher's prior written consent, the Supplier is not entitled to have the performance owed by it rendered by third parties. The supplier shall bear the procurement risk for its services, unless it is a custom-made product. Delivery shall be made „free domicile“ within Germany to the place specified in the order. If the place of destination is not specified and nothing else has been agreed, the delivery shall be made to Hilscher's place of business in Hattersheim am Main. The respective place of destination is also the place of performance (obligation to deliver). The delivery shall be accompanied by a delivery bill stating the date, the contents of the delivery as well as Hilscher's order identification. If the delivery bill is missing or incomplete, Hilscher shall not be responsible for any delays in processing and payment resulting therefrom. The risk of accidental loss and accidental deterioration of the goods shall pass to Hilscher upon delivery at the place of performance. Insofar as an acceptance has been agreed upon, this shall be decisive for the passing of the risk.

§ 5 Prices and terms of payment

All prices are inclusive of statutory value added tax. The price includes all services and ancillary services of the supplier including possible transport costs and insurances. The supplier shall take back packaging material upon Hilscher's request. The price is due within 30 calendar days after complete delivery and performance (if applicable with acceptance) as well as receipt of a proper invoice. If Hilscher makes the payment within 14 calendar days, the supplier shall grant a 3% discount on the net amount of the invoice. In case of early delivery, however, the term of payment shall be postponed according to Hilscher's confirmation date. Hilscher shall not owe any interest on the due date. For Hilscher's default to occur, a reminder by Supplier shall be required in any case. The supplier shall only have a right of set-off or a right of retention due to counterclaims that have been legally established or are undisputed.

§ 6 Confidentiality and Retention of Title

Documents handed over by Hilscher remain the property of Hilscher and are to be used exclusively for the contractual performance. The documents are to be kept secret from third parties, even after termination of the contract. The foregoing provision shall apply accordingly to substances and materials provided by Hilscher to the supplier. The transfer of the goods to Hilscher shall be unconditional and without consideration of the payment of the price. In any case, all forms of extended or prolonged retention of title are excluded, so that a retention of title validly declared by the supplier, if applicable, is only valid until payment of the goods delivered to Hilscher and for these.

§ 7 Defective Delivery

Hilscher shall be entitled to claims for defects without limitation even if the defect remained unknown to Hilscher at the time of conclusion of the contract due to gross negligence. The duty to examine according to §§377, 381 HGB (German Commercial Code) is limited to defects which become obvious during the incoming goods inspection by Hilscher under external examination including the delivery papers as well as a quality control by sampling. As far as an acceptance has been agreed, there is no obligation to inspect. A complaint within 5 working days shall be deemed to have been made immediately and in due time. The costs incurred by the supplier for the purpose of inspection and rectification shall be borne by the supplier even if it turns out that there was actually no defect. Hilscher's liability for damages in case of an unjustified request for rectification of defects shall remain unaffected; in this respect, however, Hilscher shall only be liable if Hilscher has recognized or grossly negligently failed to recognize that there was no defect.

§ 8 Supplier recourse

Hilscher shall be entitled to recourse claims within a supply chain without limitation in addition to the claims for defects. Hilscher shall be entitled to demand exactly the kind of subsequent performance from the supplier which Hilscher owes to its customer in the individual case. Hilscher's right of choice shall not be limited here-by. Before Hilscher acknowledges or fulfills a claim for defects asserted by its customer (including reimbursement of expenses), Hilscher shall notify the Supplier and request a statement. If the statement is not made within a reasonable period of time and if no amicable solution is reached, the claim for defects actually granted by Hilscher shall be deemed to be owed to its customer; in this case the Supplier shall be obliged to prove the contrary. The claims arising from supplier's recourse shall also apply if the goods have been further processed by Hilscher or one of its customers before being sold to a consumer, e.g. by incorporation into another product.

§ 9 Producer's Liability

If the supplier is responsible for a product damage, he shall indemnify Hilscher to this extent against claims of third parties. Within the scope of its indemnification obligation, the supplier shall reimburse Hilscher for expenses pursuant to §§ 683, 670 BGB (German Civil Code) resulting from or in connection with a third party claim including recall actions carried out by Hilscher. The Supplier shall take out and maintain a product liability insurance with a lump sum coverage of at least EUR 7.5 million per personal injury/property damage.

§ 10 Product discontinuation, product changes

If Supplier intends to discontinue the production of the Products purchased by Hilscher from Supplier or spare parts therefor, Supplier shall inform Hilscher in writing at least 6 months in advance and at the same time grant Hilscher the possibility to take out sufficient final insurance coverage. For the delivery of the products within the scope of the final covering the conditions agreed between the parties shall apply accordingly. Likewise, Supplier shall inform Hilscher at the latest 3 months in advance about product changes (e.g. changes in the function, in the product process, in the design, in the components).

§ 11 Quality and Environmental Management

The supplier shall observe environmental protection and shall apply and further develop a suitable, state-of-the-art quality and environmental management system (e.g. according to DIN EN ISO 9001:2008 or DIN EN ISO 14001:2004). Proof of this will be provided upon request. In addition, he undertakes to manufacture the contractual products to be delivered in compliance with the applicable environmental, safety and legal regulations, the respective ISO, EN, DIN, VDE regulations, the Equipment and Product Safety Act. In particular, he shall observe and comply with the RoHS Directive 2011/65/EC, the REACH Regulation EC No. 1907/2006 and the WEEE Directive (2012/19/EU). The supplier guarantees that the contractual products do not contain any legally prohibited substances (e.g. according to the Chemicals Prohibition Ordinance, the Battery Ordinance, the Packaging Ordinance or EC Regulation 2037/2000/EC) or exceed permissible substance concentrations. This applies in particular to the substances on the candidate list of the REACH Regulation as amended. The supplier shall be responsible for the environmental compatibility of the products supplied and for the environmentally compatible disposal of the components/materials/packaging supplied by him. He shall be liable for violations of the statutory environmental protection and take-back requirements (e.g. according to the ElektroG) and shall also be liable for any consequential damages resulting therefrom. Supplier shall provide Hilscher with a safety data sheet of the products at the time of the first delivery, unless Hilscher already has such a safety data sheet. He shall be obliged to update this safety data sheet in due time (in particular in case of changes) and shall ensure that Hilscher receives an up-to-date copy in each case. He shall provide a certificate of composition (material data sheet) of the delivered products upon first request. Upon request, the supplier shall inform Hilscher in writing about the material composition of his delivery items. Suppliers undertake to comply with the respective statutory regulations on the treatment of employees, environmental protection and occupational safety, as well as the provisions of the Dodd-Frank Act on so-called conflict minerals and the Code of Conduct of the Electronics Industry Citizenship Coalition (EICC). In doing so, the Supplier shall observe human rights, the right to collective bargaining, the abolition of forced labor and child labor, the elimination of discrimination in hiring and employment, and the prevention of corruption.

§ 12 Statute of Limitations, Choice of Law, Place of Jurisdiction

Insofar as acceptance has been agreed, the limitation period shall commence upon acceptance. Claims arising from defects of title shall not become statute-barred beyond that in any case as long as the third party can still assert the right against Hilscher. The law of the Federal Republic of Germany shall apply to all legal relations between Hilscher and the Supplier to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG). Place of jurisdiction is Frankfurt am Main. Amendments and supplements to the contract must be made in writing. This also applies to the amendment or cancellation of this clause. Pursuant to Section 33 of the German Federal Data Protection Act (BDSG), the Supplier is informed that personal data relating to him will be stored.

This text is a translation from the authoritative Terms of Purchase in the German language.