

General Conditions of Purchase of Sprecher Automation GmbH

1. Definitions, scope

- 1.1. Business Partner shall be every party to a contract and/or negotiation of Sprecher who provides, has provided or intends to provide any kind of delivery or service to Sprecher, especially every seller, supplier, service provider, contractor, party submitting an offer, etc.
- 1.2. Sprecher shall purchase deliveries and services exclusively subject to these Conditions of Purchase. Any deviating conditions of the Business Partner shall only apply in case of a written confirmation by Sprecher, neither do they apply if they are not expressly challenged. Approvals of conditions of the Business Partner as a prerequisite for online transactions or conditions supplied with orders etc. are not acknowledged or are immediately contradicted. These Conditions of Purchase shall be considered as a skeleton agreement also for all further legal transactions with the Business Partner.
- 1.3. In case of contradictions in the fundamentals of the contract, the following order of priority shall apply: (a) Special agreements, to the extent that these have been confirmed in writing by Sprecher; (b) Sprecher's Conditions of Purchase; (c) discretionary standards of commercial and civil law.

2. Offer, order etc., order confirmation

- 2.1. Offer: All offers of the Business Partner shall be made subject to confirmation and free of charge and must correspond precisely to the enquiry as regards quantity and quality.
- 2.2. Order etc.: Only written orders, call-offs, modifications, amendments etc. issued by the Purchasing Department shall be valid. To be valid, agreements made orally, by phone or by email require written confirmation by Sprecher's Purchasing Department.
- 2.3. Order confirmation: Every order must be confirmed in writing or commented on without delay, at the latest, however, within 7 working days after the date of order (especially with indication of price and delivery period). If the Business Partner does not react in writing within the specified period of time, Sprecher shall be entitled to accept the order etc. or withdraw it free of costs.
- 2.4. The complete or partial subcontracting of orders etc. by the Business Partner requires Sprecher's express previous written consent.

3. Prices

- 3.1. The prices agreed shall be understood exclusive of legal value-added tax, appropriate packaging, transport charges or shipping costs and insurance, franco designated destination, DDP Incoterms 2000, incl. any costs, e.g. transport license, customs duties, costs for take-back and disposal of packaging material etc., and the supplementary supplies or services which are usual or normally anticipated to perform the deliveries and services, even if these are not specified separately. The deliveries and services shall correspond to the state of the art. The prices are fixed prices in euro (€), which cannot be increased for any reason whatsoever. The Business Partner is obligated to transfer to Sprecher without delay essential price reductions on the procurement market.

4. Delivery date, delivery periods, delay in delivery

- 4.1. The deliveries and services shall be effected precisely at the dates, within the deadlines and in the quantities specified in the order, franco designated destination within the specified or otherwise communicated hours of receipt. The dates or deadlines shall be considered as complied with at the destination designated by Sprecher, or successful acceptance. In case of premature delivery without consultation, Sprecher reserve the right to return or store the consignment at the Business Partner's risk and costs. In any case, the payment period shall not commence prior to the agreed dates.

- 4.2. The Business Partner shall only be entitled to assert the absence of necessary documents to be provided by Sprecher if it has reminded Sprecher about transmission of the documents in writing, but not received them.

- 4.3. Sprecher reserve the right to inspect the provision of services at any time. In case of actual or imminent default, the Business Partner is obligated to inform Sprecher without delay in writing. In case of default, Sprecher are entitled, irrespective of any fault on the part of the Business Partner and independently of the proof of any actual damage being furnished, to request the Business Partner to pay as penalty a compensation for default to the extent of 2% of the total order value per commenced week, however in total not more than 5% of the total order value. Sprecher are entitled to deduct the compensation for default without any separate agreement or arrangement from the invoice amount. Moreover, Sprecher are in any case free to rescind the contract in case of default on the part of the Business Partner without fixing a period of grace. The Business Partner shall not be entitled to any claims whatsoever towards Sprecher which might be asserted on the basis of such rescission. Should Sprecher pass a replacement order, the Business Partner shall bear the extra costs resulting therefrom. Any other claims for all damage and adverse consequences exceeding the compensation for default shall remain unaffected by this stipulation. Acceptance of delayed deliveries or services shall always be subject to all claims. Impediments to delivery due to Force Majeure shall not be considered as default.

5. Documentations

- 5.1. The deliveries and services shall include the documentation required or useful for utilization thereof, such as a operating manuals, instructions, drawings, calculations, configurations etc. in German, in sufficient number and in machine-readable form. Sprecher shall be entitled to copy or transmit the documentations and, if applicable, to modify them.

6. Hardware and Software

- 6.1. Regarding software not developed exclusively for Sprecher, the Business Partner shall grant Sprecher an assignable and non-exclusive right of use; this right of use shall be unlimited in time provided a one-time payment is made. For software developed individually for Sprecher, the Business Partner shall grant Sprecher a transferable and unlimited all-inclusive right for all types of utilization. The software source code must be delivered in the current version.
- 6.2. The Business Partner shall install the software on the hardware. Any software developed individually for Sprecher shall be considered as accepted if the software has run without any error messages according to the Specifications for the duration of the agreed test run, at least, however, for four weeks. The above-mentioned period commences with the utilization for production by Sprecher, or in case of transfer, by Sprecher's customers.
- 6.3. After installation and prior to acceptance, the Business Partner submits to Sprecher a data medium with the source and/or machine code and the appropriate documentations, e.g. detailed written user documentation, test procedures, test programs, maintenance descriptions, etc. Within the warranty period, Sprecher shall receive all the subsequent program versions for debugging (updates) free of charge.
- 6.4. Any royalties shall be paid by the Business Partner.

7. Provision of materials and results

- 7.1. All data, drawings, technical documents, materials etc. transferred by Sprecher (provisions of material) must not be used for purposes other than the contractual ones. The Business Partner checks the provisions of material immediately upon receipt for functionality; subsequent complaints shall be at the Business Partner's charges.

7.2. The provisions of material shall be identified in an appropriate fashion as Sprecher's property and protected against unauthorized inspection or use and, if applicable, repaired or replaced. Subject to further rights, Sprecher can moreover demand surrender if the Business Partner infringes upon this obligation or if there are manufacturing problems. In any case, any right of retention on the Business Partner's part is excluded.

7.3. The results or partial results elaborated in performance of the order etc. must not be used by the Business Partner itself. Deliveries and services and all results therefrom, which have been produced by the Business Partner for Sprecher according to its specifications, shall be transferred into the sole property and the unrestricted right of use, especially patent rights, trademark rights, utility model rights, copyrights and similar rights shall be transferred to Sprecher. The Business Partner shall also deliver the complete documentation of the products and - in case of development activities - all documents required for the preparation and processing thereof (e.g. circuit diagrams, source codes etc.). Sprecher shall be entitled to exercise all rights, especially utilization, reproduction, publication, sale, transfer to third parties, independently of a successful acceptance and also in case of termination notice or premature termination.

7.4. Unless the provisions of material have been consumed in execution of the order or, for no matter which reason, the delivery or service concerned is not effected, provisions of material and results or components thereof shall be returned to Sprecher in appropriately packed condition at the Business Partner's cost and risk.

7.5. In case of a reduction in value or loss, the Business Partner shall provide replacement. The Business Partner shall indemnify Sprecher and hold them harmless against any misuse, any infringement upon property and any improper treatment.

8. Interruptions and modifications

8.1. Sprecher shall be entitled to demand at any time interruption or modification of the deliveries and services. The Business Partner shall only be entitled to a remuneration in case of significant changes. The Business Partner undertakes to provide for cost minimization upon a statement of modification. It shall only be entitled to invoice its deliveries or services which can be proved to have been effected to the date of the modification, not, however, loss of profit. Any advantages which can be obtained or have been obtained must be deducted.

9. Packing, handling, shipment, delivery note, self-disclosure

9.1. The Business Partner shall be liable for a correct, environmentally compatible packaging in line with the technical regulations, and for all disadvantages, especially damage, which may be due to improper packaging. In case of delivery of dangerous materials, the legal provisions and the requirements regarding type and identification of the packaging and the means of transport must be complied with. All dangerous substances, which are contained in the components and materials supplied, must be disclosed in accordance with the EAG-VO, §4 (WEEE- and RoHS Directive) referred to the processing and recycling classifications; moreover, there is an obligation to disclose information as to where the dangerous substances and preparations are located.

9.2. The Business Partner shall communicate any warning signs, storage and/or operating instructions on delivery without being requested to do so. These must be attached to the delivery as such, as far as this is possible and reasonable. The Business Partner shall be liable for any damage resulting from the ignoring of these specifications.

9.3. Deliveries to customers shall be effected, if applicable, in neutral packaging and with neutral shipping documents on behalf of Sprecher. Sprecher shall receive a copy of the shipping documents.

9.4. On the day of shipment, the shipping advice with order number and item numbers shall be sent to Sprecher. Sprecher reserve the right to treat deliveries without appropriate shipping advice as not performed, and to store them at the Business Partner's risk and costs. It is essential that any specifications issued by Sprecher regarding packaging and the mode of shipment are complied with.

9.5. All deliveries must be accompanied by a delivery note in duplicate, and separate according to order number and item numbers. On the delivery note or by self-disclosure, all the required information regarding regulations on export licenses, e.g. Export Control Classification Number ECCN or EAR 99, export list number of the EG Dual-Use regulation or national law (AL-No, HS Code), preferential treatment (movement certificate, declaration of origin, country of origin, preferential country of origin), the data required for the labour statistics (Intrastat), the net weight and the country of origin of each item must be disclosed.

10. Export Performance Requirements

10.1. The Business Partner shall verify, on indication of the destination, whether the deliveries or services are subject to Export Performance Requirements in accordance with EU regulations, EAR Regulations (Export Administration Regulations) or ITAR Regulations (International Traffic in Arms Regulation). If the Business Partner does not point out such expressly, this shall be considered as confirmation that no Export Performance Requirements whatsoever need to be observed.

11. Acceptance

11.1. The deliveries and/or services shall be accepted as soon as these are in conformity with the contract and free of defects, or on receipt at the destination specified by Sprecher, and issue of the confirmation of receipt. The risk shall pass to Sprecher at the time of acceptance. Any reservations of ownership of the Business Partner, no matter of which type, shall not be applicable.

11.2. If it is found on sampling inspection that the delivery and/or service, completely or partially, does not comply with Sprecher's specifications or with commercial quality, Sprecher reserve the right of refusal.

12. Invoicing, payment

12.1. Invoices shall comply with the legal provisions, especially the Value-Added Tax Act and any separately agreed stipulation. They must not be enclosed with the deliveries. Invoices shall in any case contain the order number, the order date and the order item number to permit straightforward comparison to the order etc. If the inclusion of the invoice with the delivery is specified by law (e.g. customs clearance), the Business Partner shall not derive any rights whatsoever from such inclusion. Invoices regarding services shall be accompanied by work and time records confirmed by Sprecher. The Business Partner shall be liable for any extra or consequential costs due to incorrect or incomplete invoicing. Sprecher reserve the right to return invoices which do not comply with these requirements; in this case, the invoice shall be considered as not issued.

12.2. The payment period shall commence at the earliest on the day on which the deliveries and/or services have been accepted and the correctly issued invoice has been received. The payment does not imply an acknowledgement of the correctness of the delivery and/or service or a waiver of any claims whatsoever. The Business Partner is forbidden to assign any claims against Sprecher to third parties, to pledge them or to make them the object of legal transactions. The Business Partner is not entitled to set off claims.

12.3. In case of performance other than provided by the contract or up until the correct elimination of any defects, Sprecher shall be entitled to retain payment completely or partially.

12.4. Unless anything to the contrary has been stipulated, payment shall be effected at the choice of Sprecher within 30 days subject to 3% discount or 90 days net. The payment shall not relieve the Business Partner from warranty and guarantee; it shall not affect any subsequent notifications of defects. Down payments shall retain their value on an aliquot basis, referred to the total order value. Sprecher reserve the right to effect payment by draft. The payment shall be effected in time if the remuneration is dispatched within the payment period, or if an appropriate instruction has been issued to the credit institute performing the money transfer.

13. Warranty, guarantee, damages

13.1. The Business Partner assumes full and genuine 24-month warranty for itself, its subcontractors and sub-suppliers for the complete and correct performance in accordance with the order or delivery call-off - especially for the commonly anticipated and if need be warranted features which have been mentioned in public statements, in accordance with samples or specimens, and for the compliance with all the appropriate legal and regulatory provisions of the deliveries and/or services valid at the destination and for the sales markets disclosed by Sprecher.

- 13.2. The Business Partner is aware that, due to the genuine warranty explained above, Sprecher are not obligated to examine the item delivered and to notify the Business Partner of defects. The warranty period shall commence at the date of acceptance of the delivery and/or service by Sprecher.
- 13.3. Within the scope of the warranty, Sprecher shall be entitled, at their choice, to either demand of the Business Partner at the latter's cost and risk elimination of defects by correction (repair, restitution of missing items) and/or replacement at short notice, or to assert a reduction in prices or to return the deliveries and/or services to the Business Partner at its costs and to declare redhibitory action or to eliminate defects or to provide services which have not been provided or only with defects or to have them eliminated or provided by third parties at the cost and risk of the Business Partner. Replacement deliveries shall be effected on a freight paid basis.
- 13.4. If a defect occurs frequently, the Business Partner shall repair or replace at its costs the entire consignment and refund the extra charges Sprecher can prove to have incurred.
- 13.5. The genuine warranty explained above does not affect any other claims of Sprecher, especially such resulting from legal warranty, damages and rescission of the contract. The warranty period is three years. In case of repair, the warranty and guarantee period for the repaired or replaced part commences anew. At the same time, the warranty of the entire consignment is extended by the period during which utilization of the latter due to the defect and elimination thereof was not possible.
- 13.6. To the extent that Sprecher are entitled to damages, this claim also covers the replacement of loss of profit and replacement of all damages which Sprecher have to refund to their customers.
- 13.7. The Business Partner shall point out, in a way which can be proved, all risks to Sprecher which must be reasonably expected to occur in the utilization of the delivery. In case of utilization from the title of warranty, the Business Partner shall be required to prove, during the entire warranty period, that the defect did not exist at the date of delivery.
- 13.8. In case of special urgency, e.g. in case of tardiness of the Business Partner in the elimination of defects, Sprecher reserve the right, after fixing a period of grace and notwithstanding the rights of Sprecher from the Business Partner's warranty and guarantee liability, to cover their demand from another source at the Business Partner's costs, or to repair or to have repaired faulty deliveries and/or services at the Business Partner's charge. The costs for such remedial action shall also be refunded in full even if these are higher than if the Business Partner had taken the remedial action itself.
- 14. Product liability**
- 14.1. Should the consignment prove to be deficient within the meaning of § 5 Product Liability Act (PHG) and/or should it turn out that the characteristics of the delivery no longer satisfy the state of the art and science within the meaning of § 8 PHG, the Business Partner undertakes to take such consignments back and to refund the price in full.
- 14.2. If Sprecher are utilized on account of deliveries by the Business Partner in accordance with PHG, the Business Partner undertakes to surrender immediately, at its costs, any required means of evidence, such as, especially, quality and inspection records, certificates etc. In such case, the Business Partner undertakes additionally and independently of any fault, to refund the entire damage or disadvantage as well as any legal fees to be incurred by Sprecher on account of the liability. The Business Partner undertakes to take out an appropriate insurance within the meaning of § 16 PHG, with Sprecher reserving the right to request the Business Partner to furnish proof of appropriate insurance cover.
- 15. Support, spare parts**
- 15.1. In the case that any faults should have become known, the Business Partner shall submit immediately a suggestion regarding a remedy. The Business Partner undertakes to ensure traceability of its consignments over a period of at least 10 years after acceptance, to permit containment of faulty parts in case faults have been detected.
- 15.2. The Business Partner warrants supply capacity of technically equivalent spare parts over a period of 15 years after the end of the warranty period, or to provide assistance in the replacement of equivalent spare parts. The Business Partner undertakes to inform Sprecher at least 12 months prior to changes / discontinuation of the deliveries.
- 16. Termination, rescission, Force Majeure**
- 16.1. Sprecher have the right to complete or partial termination at any time. The Business Partner is entitled to receive the remuneration for all work which has been performed, delivered and received in accordance with the contract until the date of termination. Further claims do not exist. In case of termination, the Business Partner will deliver to Sprecher all the complete results and documentations generated.
- 16.2. Sprecher are entitled to rescind the contract immediately for due cause. Such due cause shall be e.g. infringement on essential contractual stipulations, default, bankruptcy, institution of insolvency proceedings or dismissal of a petition to institute insolvency procedures due to lack of cost-covering assets. The Business Partner shall not be entitled to any claims whatsoever towards Sprecher which might be asserted on the basis of such rescission. Sprecher shall be entitled to demand that the Business Partner refund the costs incurred by Sprecher for such rescission.
- 16.3. Any unforeseen circumstance and any case of Force Majeure which impedes, delays or prevents production, delivery or acceptance within the scheduled deadlines, such as regulatory measures, war, strike, lock-out, riot, business disruptions, transportation disruptions, lack of raw materials or the delayed allocation thereof, other elementary events, etc., entitle Sprecher without the necessity of fixing a period of grace, to rescind the contract completely or partially, to reduce the agreed delivery volume unilaterally, or to request the delivery or performance of an issued order etc. at a subsequent date without any replacement claims whatsoever resulting therefrom for the Business Partner.
- 17. Confidentiality**
- 17.1. The Business Partner undertakes to treat all information, drawings, technical documents, provisions of material and documentations whatsoever, which it receives in conjunction with the order etc. via Sprecher or the object of the order or which come to its knowledge, confidentially, and not to reproduce them, not to disclose them to third parties or to make them otherwise accessible, unless these have come to its knowledge legally in general or in any other way. The Business Partner shall also oblige its members of staff involved to comply with the corresponding secrecy obligation. The obligation of secrecy remains in force upon termination of the order etc.
- 17.2. The Business Partner shall only be authorized with Sprecher's explicit, written approval to point out the existing business relationship in no matter which type of advertising means and publications.
- 18. Industrial property rights**
- 18.1. The Business Partner warrants that with the payment of the agreed price, acquisition of all rights of use and legal industrial property rights has been remunerated so that deliveries and services can be used freely without infringing on any industrial property rights of third parties (patent rights, trademark rights, utility model rights, copyrights, territory protection and similar rights, even if granting thereof has been filed for and is pending). The Business Partner shall indemnify Sprecher completely and hold them harmless against any claims by third parties. Notwithstanding any further rights, the Business Partner shall procure the right for Sprecher, in case of utilization, to use the delivery or the service freely or to replace it by another one which complies with the contractual requirements.
- 19. Quality Assurance**
- 19.1. To ensure maximum quality, the Business Partner shall be required to plan, determine, perform and monitor systematically quality measures, and to oblige its subcontractors and sub-suppliers accordingly. The Business Partner shall grant Sprecher and their deputy on request and to the extent required, the right of inspection, or shall deliver records to them.

- 19.2. Unless otherwise specified in writing, deliveries and services shall comply with all pertinent quality standards as amended. Especially, the appropriate national, international and technical standards and environmental, safety and quality standards (all as amended) must be complied with and proof thereof must be furnished on request, such as ÖVE, VDE, Ö Standards, DIN, EN, UL and similar bodies of rules and regulations, as well as MTBF data, and the legal (e.g. the Laws on Electrical Engineering) and regulatory provisions valid at the destination specified by Sprecher.
- 19.3. Deliveries and services within the European Union must be confirmed in writing with CE sign (Declaration of Conformity) in accordance with the EU Directives and Austrian laws by the manufacturer or the entity responsible for the commercialization. At Sprecher's demand, Declarations of Conformity or test reports by accredited agencies must be provided free of charge. The Business Partner shall inform in time about changes to materials, production procedures, supply parts and Declarations of Conformity.
- 20. Miscellaneous**
- 20.1. Should individual provisions of these Conditions of Purchase be completely or partially ineffective, all the remaining provisions remain nevertheless effective. The ineffective provision shall be replaced by another one which is effective and whose contents and purpose are as close as possible to the ineffective provision.
- 20.2. The headings of the stipulations contained in these Conditions of Purchase are for reference only and must not be used for interpretation.
- 20.3. No business development occurring between the Business Partner and Sprecher, and no delay or omission regarding the execution of a right, remedy or legal means granted to Sprecher on the basis of these Conditions of Purchase, shall constitute a waiver of these rights. Any right and legal means or any remedy granted to Sprecher in this document is considered as cumulative and co-exists with the same priority besides and in addition to other rights, legal means and remedies provided by law.
- 20.4. To the effect that these Conditions of Purchase require the Business Partner to use the written form, it cannot be replaced by the electronic form in terms of the Signature Act (BGBl I 1999/190).
- 21. Place of performance, choice of law and venue**
- 21.1. For all rights and obligations resulting from legal transactions concluded with Sprecher, the delivery address or the site of installation or use specified on the order etc. shall be considered for both parties as place of performance, otherwise the registered office of the factory at Franckstraße 51, 4020 Linz, Austria. This applies especially for the Business Partner regarding delivery and payment, independently of any individual agreement regarding the place of delivery and/or payment and/or the taking in charge of any transport costs by Sprecher.
- 21.2. For the Business Partner, the legal venue for all disputes resulting from the present contractual relationship or related to it, shall exclusively be the court having competence for Linz/Austria. However, Sprecher shall be entitled to sue the Business Partner in any other court which may have competence in accordance with national or international law.
- 21.3. All legal transactions, especially those as are subject to these Conditions of Purchase, shall be governed exclusively by Austrian substantive law, except, however, its reference norms, especially those of International Private Law, to the effect that these refer to the application of foreign law. If, in case of contact with foreign countries, Austrian law provides for the application of special international rules of substantive law which also apply in Austria, such as the UN convention on contracts for the international sale of goods, these shall not apply.