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## § 1 Scope

(1) Only the following general terms and conditions of purchase are applicable for all, including future, legal relationships of WATT DRIVE Antriebstechnik GmbH (also referred to hereinafter as “WATT DRIVE”). The current version of these terms and conditions at the time the contract is concluded is applicable and is available on our website ([www.wattdrive.com](http://www.wattdrive.com)). Conflicting general, sales or delivery terms and conditions of the supplier are not binding for us. They are hereby expressly objected to. The supplier recognises the sole validity of these terms and conditions of purchase with the acceptance, but no later than upon executing the order, even if in doing so the supplier refers to his own terms and conditions. Our acceptance of the delivery and service of the supplier or the payment thereof does not constitute agreement to the terms and conditions of the supplier. These terms and conditions of purchase are also valid, insofar as deviating or supplementary clauses or those that modify our terms and conditions are in offers or confirmation letters. They are hereby expressly objected to. If there is a framework contract and/or if our order refers to an existing framework contract, these terms and conditions of purchase apply on a subsidiary basis to the existing framework contract.

## § 2 Offers/Orders

(1) Samples, offers, cost estimates and price information from the supplier are without obligation and free of charge for us. Orders are only valid if they are submitted in writing or confirmed by us in writing. Only content that is put in writing in a legally binding manner is deemed to be part of the contract. The requirement for the written form is also met by the use of fax, EDI or email. Orders placed by WATT DRIVE are deemed to be accepted if the supplier does not object to the written order with a deviating order confirmation within 5 working days of receiving said written order. Neither the complete order nor parts thereof may be forwarded to third parties (subcontractors or others) without our written consent.

## § 3 Delivery/Acceptance

(1) The supplier is committed to strict adherence of the agreed delivery date. Partial deliveries or early deliveries require the express consent of WATT DRIVE. If a time has not been agreed, the service shall be provided or the delivery shall be made immediately. The supplier shall inform WATT DRIVE of anticipated delivery delays immediately by specifying the duration and cause of the delay and the new binding delivery date and obtain a decision from WATT DRIVE in relation to this.

(2) The delivery is made “ex works” (DDP according to INCOTERMS 2010) for the account of and at the risk of the supplier. The supplier must guarantee and comply with all legal regulations, especially export and customs legislation and technical regulations, to be adhered to for each shipment. The delivery to us must be marked so that the contract products can be clearly identified and traced. They must be given a delivery note, order number, order items and goods recipients. The ordered products must also meet the EU conditions of origin; the supplier must also supply WATT DRIVE with the corresponding certificates of origin without being requested to so unless WATT DRIVE expressly waives this requirement.

(3) The supplier confirms that all deliveries must adhere to provisions of EU law, especially the REACH regulation (EC) No. 1907/2006, the RoHS Directive 2002/95/EC and the WEEE Directive 2002/96/EC as amended.

(4) If delivery dates or the destination are not adhered to, we have the right to demand a contractual penalty that is not subject to the judicial mitigation of 1% of the order value for each week of default begun, but amounts to no more than 5% of the order value, regardless of further claims for compensation. We reserve the right to prove that we suffered exceeding damages. The supplier reserves the right to prove that we did not suffer any damages or only substantially lesser damages.

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## § 4 Dispatch/Prices/Risk assumption

(1) The values determined by us during the incoming goods inspection are applicable for quantities, dimensions and weights of a delivery. Overdelivery or underdelivery quantities are permitted within the overdelivery and underdelivery tolerances specified in the order or technical specification.

(2) We will inform the supplier of any defects in the delivery immediately in writing as soon as they are determined/discovered under the circumstances prevailing in the due course of business; this may also be during further use. The supplier waives the right to object on the grounds of a late complaint regarding a deficiency pursuant to Section 377 UGB. Hidden defects entitle WATT DRIVE to warranty claims and/or claims for damages at all times. Payments made shall not be deemed as an acknowledgement of proper delivery.

(3) Agreed final prices are maximum prices and are for shipments incl. all dispatch and packaging costs free at receiving station (DDP pursuant to INCOTERMS 2010) excluding value added tax.

(4) The risk is only transferred to us when the goods are received at the specified destination.

(5) We can choose between the following payment terms (i) 14 days after receipt of the goods with a 3% discount or (ii) 30 days net or (iii) existing or negotiated separate agreements.

(6) Invoices must adhere to the applicable tax provisions and must each be allocated with a WATT DRIVE order number. Otherwise, they will be returned to the supplier and will not be due for payment.

(7) Exchange rate and currency fluctuations as well as bank charges shall be borne by the supplier.

## § 5 Warranty/Liability

(1) The supplier warrants the use of the best materials suitable for a specific purpose and the correct and appropriate implementation taking into account the latest state of the art in science and technology. It expressly assures that all of the sold goods match the samples, patterns and descriptions it has supplied. The information provided by the supplier in relation to the sales talks, but especially in catalogues, advertising documents, public statements, data sheets and/or other product descriptions is deemed to be the contractually agreed quality of the products. Under these circumstances, the supplier warrants that the products have the agreed contractual quality. If they do not have this quality, it must at least ensure that the products are accessible for the use specified in the contract or have the quality that is standard or can be expected for the same type and quality of goods.

(2) The supplier hands over the contractual work with all work results to WATT DRIVE; the unrestricted rights to use the work provided by the supplier and the associated work results, incl. Know-how in any way whatsoever are held exclusively, irrevocably and unrestrictedly by WATT DRIVE.

(3) The supplier must indemnify WATT DRIVE from any disputes resulting from the delivery that are based on intellectual or industrial property rights and ensure the unrestricted use of the delivered goods.

(4) We are authorised to request that any faults be rectified and/or spare parts be delivered free of charge, at our option, in the event of a defective delivery. Any expenses incurred by us as a result of this such as transportation, road, labour and material costs or costs for any work that exceeds the standard scope of an audit for an incoming goods inspection are borne by the supplier. If the supplier does not meet our written request to remedy the defect within an adequate period of time set by us, we may take the necessary measures ourselves or have a third party carry them out at the supplier's expense. We can rectify or have minor defects rectified immediately at the supplier's expense. If we make use of our legal right of withdrawal, the goods will go back to the place of dispatch at the expense

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and risk of the supplier. We are also authorised to assert compensation claims for non-performance and damage which did not occur to the delivered object itself according to the statutory provisions.

(5) The limitation period for the assertion of defects is 24 months. It begins with the handover of goods deliveries or with the acceptance of the contract of work, i.e. at the time the risk is transferred. The warranty and guarantee period starts anew once the corrective action has been completed.

(6) The supplier is generally liable to us for each form of fault, especially for each form of negligence on the part of its workers, employees or other providers. The supplier must accept responsibility for the faults of its suppliers and subcontractors as it does for its own faults.

(7) The supplier indemnifies us from claims, regardless of the legal reason, to our contract partners and other third parties which result from any negligent or intentional violation of contractual or secondary contractual duties and of non-contractual due diligence obligations of the supplier. This also applies to product liability claims which are attributable to the defectiveness of the supplier's product regardless of who is deemed to be the manufacturer of the end product under liability law. The supplier must prove that the goods delivered to us did not have faults. It assumes all resulting costs and expenses (including the costs of a potential legal dispute or a necessary retrofitting or recall). The supplier must prove to us that it has taken out sufficient product liability insurance by submitting valid confirmation of insurance.

## § 6 Supplementary provisions for services

(1) The type, scope and costs of services are described in detail in a service certificate or the order. If there are any changes, a change to the order must be agreed between the parties. Otherwise, the supplier may not request remuneration for these changes. The supplier must inform WATT DRIVE of any changes immediately in writing as soon as they become evident to it. Services are either invoiced as fixed prices and based on actual expenditure or on an hourly basis with a maximum total of calculable hours being agreed in the latter case. For services that are invoiced on an hourly basis, only the actual hours worked are calculable. The payment is made based on service specifications that must be approved by WATT DRIVE. The supplier ensures that it provides services to the best of its knowledge, with utmost care and according to the state of the art. The warranty provisions pursuant to Section 5 above apply mutatis mutandis in relation to this. The supplier ensures that only sufficiently qualified personnel are employed to perform the service. These employees are listed in the service specifications. The supplier will not replace any employees without cause. Prior written approval must always be obtained from WATT DRIVE. The supplier must assign the confidentiality obligations that it is responsible for according to these terms and conditions of purchase to its employees involved in the project beforehand.

## § 7 Transfer of ownership

(1) There is agreement in place with the supplier that the ownership of the ordered goods transfers to us upon the payment being made. The supplier assures that there are no third-party rights to delivered goods. We do not recognise an extended or forwarded retention of ownership of the supplier.

## § 8 Quality

(1) The supplier must manufacture the contract products to be supplied and carry out inspections in accordance with the environmental, safety and legal regulations valid for these contract products, the ISO regulations, Austrian standards (ÖNORMEN), etc., the generally recognised technical rules and customary quality provisions. The supplier operates a customary quality management system and will maintain and enhance this system for the duration of the cooperation in accordance with the relevant standards.

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(2) The supplier shall inform us beforehand and in a timely manner of any change to the contract products and processes within the company; this also applies to products that the supplier purchases from third parties. The supplier will inform us immediately in writing if there is a planned change to the production or test procedure or a change to the production location. We reserve the right in any case to check the products again due to the aforementioned changes in accordance with the rules of our product qualification process and/or subject the products to a technical approval procedure and, if applicable, to refuse the changes if the product fails our product qualification process as a result of said changes.

## **§ 9 Property rights/Secrecy/Materials**

(1) All types of drawings, models, samples, tools and documents that were provided by us or produced according to our specifications, are our property and may not be used for third parties or be made accessible to them in another manner.

(2) The supplier is liable for ensuring the samples, brands, models, drawings, descriptions and documentation it has provided are free from the rights of third parties and commercial property rights of third parties are not violated. The delivered goods must adhere to statutory regulations and official directives. The supplier indemnifies us against claims for damages asserted by third cases if these rights and regulations are violated.

(3) The supplier must treat the confidential information made available to it as well as knowledge it has gained in the course of executing the order confidentially beyond the ordering process and not use it for itself or through third parties. At the request of WATT DRIVE, the confidential information must be returned along with all copies made to WATT DRIVE after the order has been executed or after the non-issuing/cancellation of the order has been communicated.

(4) The supplier is prohibited from referring directly or indirectly to its activities for WATT DRIVE without WATT DRIVE's prior approval, i.e. esp. naming WATT DRIVE as a reference customer or using WATT DRIVE's trademarks, logos etc.

(5) Material/parts provided remain our property and must be stored separately by the supplier and only used for our order. During the treatment and processing, we will become the direct owner of the new or modified article. The supplier is also liable for damage or loss without fault.

## **§ 10 Force majeure**

(1) In the event of force majeure or operating restrictions and shutdowns that become necessary, we have the right to extend the delivery date or to withdraw from the contract. There is no default of acceptance in this case. In the event of force majeure, we are authorised to change the order 8 weeks before the agreed delivery date by either increasing or reducing the number of units or by purchasing other parts of a corresponding value and of a similar type subject to the otherwise unamended terms and conditions. This notwithstanding, we are also entitled to extend the originally planned delivery and acceptance date by 4 weeks without facing the legal consequences of the default of acceptance. If the supplier is unable to comply with the bindingly confirmed delivery date due to force majeure, labour disputes or other operating reasons for which it is not responsible, it must inform us immediately after becoming aware of the reason therefor. We are authorised in this case to either extend the acceptance period or to withdraw from the contract in whole or in part after an appropriate period if our interest in the delivery is considerably reduced. The supplier is not authorised to withdraw from the contract or to increase prices at its own discretion in cases of force majeure, etc.

## **§ 11 Software**

(1) Unless agreed otherwise, the supplier gives us at least a non-exclusive, non-transferable and unlimited right of use to software and hardware products and the associated documentation. We are

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authorised to make copies for the purpose of data protection. We are also authorised to forward information to our customers relating to the handling of the contract with reference to a potential copyright notice of the author. The supplier guarantees that the software and its data structure is fault-free and assures that it has produced proper duplicates.

## § 12 Compliance/Data protection

(1) The supplier assures that it has taken due note of the Code of Conduct of WATT DRIVE and has instructed its managers, employees and any subcontractors to comply therewith. In order to ensure this good conduct, the supplier must take all necessary measures to prevent illegal activities, especially at the expense of WATT DRIVE. The supplier will take organisational precautions in its company to monitor the compliance of its employees and any subcontractors with value-based codes of conduct, especially precautions that are required to prevent corruption and other criminal offences.

(2) The supplier also respects human rights worldwide and corporate responsibility as they are listed in the general principles of the UN Global Compact and summarised in the applicable version at the time the order becomes effective at

<http://www.unglobalcompact.org/AboutTheGC/TheTenPrinciples/index.html>.

(3) The supplier must also comply with the applicable data protection regulations.

## § 13 Jurisdiction, applicable law, place of performance

(1) Any suit, action or legal proceeding relating to or arising out of this Agreement shall be brought in the courts for commercial affairs located in Vienna, Austria. Alternatively, however, we are entitled to file any suit, action or legal proceeding at the place of residence and/or business of the customer.

(2) The parties agree that all matters arising under, relating to or resulting from this contract shall be exclusively governed by the laws of Austria except for (i) its conflict of laws provisions and (ii) for the UN Convention on Contracts for the International Sale of Goods.

(3) The registered office of WATTDRIIVE is agreed as the place of performance for delivery and payment, even if the transfer takes place at another place in accordance with this contract.

## § 14 Final provisions

(1) If individual parts of these terms and conditions of purchase are or become invalid, the remaining provisions and the contract will remain unaffected. The relevant provision must then be interpreted in such a way that the originally intended economic and legal purposes are achieved as much as possible.

(2) Declarations made on behalf of WATT DRIVE are only legally binding if they are issued in the required number by persons authorised to represent the company including members of the management, authorised representatives or authorised agents.

(3) The supplier may not contest the contract on account of an error and/or a reduction to the value by more than half (*laesio enormis*). The offsetting of claims against claims of WATT DRIVE is ruled out.

(4) There are no verbal or written ancillary agreement to this contract. Changes or amendments must be made in writing; this also applies to any intention to depart from the written form requirement.

(5) WATT DRIVE's failure to exercise or assert its rights in accordance with these terms and conditions of purchase does not constitute a waiver of any such right and the subsequent exercising or assertion of such rights is expressly reserved.