

General Purchasing Conditions of Buss-SMS-Canzler GmbH for the procurement of materials and services

1. General

- 1.1 These General Purchasing Conditions shall apply to all present and future procurements of materials and services („Supplies“) of Buss-SMS-Canzler GmbH, D-35510 Butzbach („Purchaser“) from Suppliers being entrepreneurs in the sense of § 310 section 1 of the German BGB.
- 1.2 Deviating or complementary conditions as well as changes and amendments to the contract, shall be valid only if agreed in traceable form (in writing, by telefax or E-Mail). Such deviating or complementary conditions of Supplier shall, in particular, not be deemed tacitly acknowledged by Purchaser by taking possession of the Supplies without any reservations.

2. Offer

- 2.1 Based on Purchaser's request Supplier shall submit – free of charge - a binding offer. The Offer shall explicitly point out any deviations from the request as well as any ambiguities, gaps or Purchaser's technical specifications which may impair or make impossible the suitability of the Supply for the purpose for which it is intended.
- 2.2 If its Offer is not accepted, Supplier shall not be entitled to any remuneration or compensation for the costs incurred in connection with its preparation, in particular any costs incurred in connection with contract negotiations, travels, drawings, drafting, etc.

3. Order

- 3.1 Purchaser shall be entitled to withdraw its order, if it has not been unconditionally accepted by Supplier in traceable form within two weeks after receipt. Such withdrawal shall not give rise to any claims on the part of Supplier.
- 3.2 The Confirmation of Order shall explicitly point out any deviations from Purchaser's Order. Such deviations shall only form part of the contract if explicitly agreed to by Purchaser.
- 3.3 All annexes and attachments to the Order, such as descriptions, drawings, requirements and other documents, shall form an integral part of the Order.
- 3.4 After conclusion of the contract Purchaser shall be entitled to request reasonable changes with regard to the scope of Supply, in particular regarding specifications, drawings, design, construction, date and place of delivery, packing, quality, quantity and means of transport.

To the extent such change requests entail an increase or decrease of Supplier's costs or of the date of delivery, Supplier shall inform Purchaser as soon as possible, at the latest within 7 working days, of the expected increase in costs and/or the new delivery date. The Parties shall then, as soon as practical, attempt to agree on a reasonable adjustment of the purchase price and of the delivery date.

If Supplier fails to raise any objections against the requested changes within 7 working days, they shall be deemed tacitly accepted and any request for price adaptations waived. Failure by the Parties to agree on any price adaptation requested by Supplier within said 7 days' period, shall not relieve Supplier from his obligation to execute the contract change. In this case the dispute over the price adaptation shall be finally settled by the competent court or arbitral tribunal.

4. Delivery, Delays

- 4.1 Partial or ahead of schedule deliveries shall be accepted only if so agreed.
- 4.2 All shipping documents and delivery notes shall indicate Purchaser's Order Number.
- 4.3 Supplier shall inform Purchaser immediately of any circumstances occurred or likely to occur, which may impair the agreed delivery date.
- 4.4 Delays occasioned by missing information, documents or objects to be supplied by Purchaser shall be excused only to the extent Supplier has requested the transmission or supply of said items in due time.
- 4.5 In case of delay in delivery, Purchaser shall, for each working day, be entitled to a penalty in the amount of 0,3 % of the contract price up to a maximum of 5 %. Purchaser's right to claim damages exceeding the penalty remains reserved. Supplier may provide evidence that Purchaser has not suffered any or substantially lower damages as a result of the delay.
- 4.6 Save for Supplies known by Supplier to become useless to Purchaser, if not delivered exactly on time, Purchaser may only cancel or rescind the contract, if delivery of the materials or the provision of the services has not been made within a grace period of ten (10) working days.
- 4.7 In case of foreseeable unrecoverable delays, Purchaser shall be entitled to withdraw from or rescind the contract already prior to the due date and claim damages for Supplier's breach of the contract.

5. Packing, Transport, Passing of Risk

- 5.1 Supplier shall pack the Supplies appropriately and timely advise Purchaser of any precautions to be observed in connection with the opening of the packing. Reusable packing will be paid only, if adequately compensated upon its return to Supplier.
- 5.2 Unless otherwise agreed, the risk in the Supplies passes to Purchaser according to the agreed Incoterm[®] of the International Chamber of Commerce as in force upon conclusion of the contract. Failing any agreement of a specific Incoterm[®] or on the passing of risk, the risk shall pass upon proper delivery at the agreed place of delivery. If no place of delivery has been specified, it shall pass upon delivery at Purchaser's works). In case of delivery including erection, it shall pass upon completion of the erection at the agreed erection site.

6. Price, Terms of Payment

- 6.1 The prices agreed in the Order are firm and not subject to escalation. Unless otherwise agreed the prices are understood including delivery to the agreed place of delivery and including packing.
- 6.2 Pre-payments are made only against adequate securities.
- 6.3 Invoices can only be processed, if the Order number is correctly indicated.
- 6.4 The invoice shall further indicate the correct VAT number as well as Supplier's tax number and tax office.
- 6.5 Unless otherwise agreed, the price shall be due and payable at a discount of 2 % within 14 days from receipt of the Supplies or the provision of the services as well as receipt of Supplier's invoice, or 30 days net.
- 6.6 Payments by Purchaser shall not constitute acceptance of the materials or services.
- 6.7 If Supplier is in delay with the presentation of accompanying documents required for customs clearance, in particular with properly signed certificates of origin in duplicate, Purchaser shall be entitled to withhold an appropriate part of the purchase price, at least 10 %, until complete submission of the missing documents.
- 6.8 Supplier shall assist Purchaser with all means required for reducing or minimizing duties to be paid by Purchaser.

7. Notification of Defects, Warranty

- 7.1 Supplier warrants that the Supplies comply in all respects with the terms of the contract, achieve the agreed performance parameters, are new and state-of-the art and fit for the purpose for which they have been purchased. The Supplies shall comply with all applicable standards, laws and regulations, including, without limitation, those dealing with environmental issues, health and safety, in force at the final place of delivery indicated in the Order. The Supplies shall be delivered complete with all instructions, warnings and other data necessary for the safe and proper operation.
- 7.2 Unless the Parties have agreed on a joint acceptance procedure, as well as subject to any deviating terms agreed in a quality agreement between the Parties, Purchaser's inbound inspection of the Supplies shall be limited to an inspection regarding identity, quantity and visible transport defects. Other, in particular hidden defects, may only be detected in the ordinary course of business. To this extent Supplier waives any objection that Purchaser has been in delay in notifying a defect. Defects discovered by Purchaser shall be notified to Supplier within 14 days following receipt of the Supplies or, in case of hidden defects, following their detection.
- 7.3 If the Parties have agreed on specific performance guarantees and on a performance test for the verification of the guaranteed performance parameters, the test shall only be deemed fulfilled if the guaranteed performance parameters are being achieved continuously throughout the test. The acceptance test is to be carried out within the agreed period of time and may not be repeated more

than twice. If the Supplies fail to pass the agreed performance test, Purchaser may exercise the legal remedies agreed in the contract or, in their absence, any remedies available at law.

- 7.4 In case of any breach of the warranties provided above, Purchaser may avail itself of any remedy available at law. In addition, Supplier shall be responsible for any costs of dismantling and reassembly of any Supplies to the extent necessary to effect the remedy, as well as, if the remedy cannot be effected at the final place of destination indicated in the Order, any related transportation costs, taxes, duties and other levies.
- 7.5 If necessary to avert foreseeable damages or in case of urgency, Purchaser may – after prior notice to Supplier – remedy or have remedied the defects at Supplier’s cost.
- 7.6 The Supplies are warranted for a period of 4 years, commencing upon delivery at the agreed place of delivery, or, if an acceptance test has been agreed, upon acceptance of the Supplies by the Purchaser; subject to longer warranty periods provided at law or legal regulations regarding commencement, suspension or restart of warranty periods or statutes of limitation. Purchaser’s notice of a defect shall suspend the statute of limitation regarding any claims arising out of or in connection with the respective defect for a period of 6 months.

8. Liability

- 8.1 Unless otherwise agreed in the contract concluded between the Parties or in these terms and conditions, Supplier shall be liable for all damages and losses as provided by law.
- 8.2 Purchaser shall be liable for damages caused willfully or by gross negligence.

9. Insurance

- 9.1 Supplier shall procure and maintain - for at least 5 years from delivery of the Supplies - at its sole expense insurances with reputable and financially sound insurance companies, which adequately cover Supplier’s liability to Purchaser and third parties. Purchaser is entitled to require from Supplier evidence that Supplier has taken out insurance for specific risks and that the respective policies provide the agreed minimum coverage.
- 9.2 The existence of any insurance shall not limit Supplier’s obligation under any provision hereof or under the contract concluded between the Parties.

10. Quality, Environment

- 10.1 Unless otherwise agreed, Supplier shall, at Purchaser’s request, by submitting quality records or other documents, provide evidence of the efficiency of its ISO 9001 quality management system. Upon request, Supplier shall further provide evidence that he has implemented and maintains an environmental management system in accordance with the requirements of ISO 14001, or at least an equivalent system derived from ISO 14001.

- 10.2 Upon forty-eight (48) hours' notice, Purchaser shall be entitled to have access to Supplier's premises during normal business hours and without interfering with Supplier's business in order to inspect all documents, instruments, books and records relating to any supply contract or the Supplies which are subject of such supply contracts, as well as Supplier's manufacturing process.
- 10.3 The aforementioned inspection shall in not prejudice the remedies available to Purchaser in connection with defective Supplies.
- 10.4 Supplier agrees to keep all records documenting the quality of the Supply for at least ten (10) years from the date of delivery.
- 10.5 Supplier shall impose the aforementioned obligations also on its sub-contractors and/or sub-suppliers and, upon Purchaser's request, submit pertinent evidence.

11. Spare Parts

- 11.1 Supplier undertakes to supply - at competitive conditions and for a period of at least ten (10) years following delivery of the Supply – spare parts required therefor.
- 11.2 Supplier shall without delay inform Purchaser, if he - upon expiry of the 10-year period in Clause 11.1 - intends to discontinue the manufacture of spare parts for Supplies made to Purchaser. The pertinent notice has to be given at least three (3) months prior to the discontinuation of production. Within one month following receipt of such notice, Purchaser shall be entitled to place a final order for the delivery of spare parts at customary market conditions.
- 11.3 Purchaser shall also be entitled to procure spare parts, not covered by Supplier's industrial property rights, directly from Supplier's sub-supplier or any third party.
- 11.4 Supplier shall impose the aforementioned obligations under this Clause 11 also on its sub-contractors and/or sub-suppliers.

12. Free Issue Material

- 12.1 Free issue material supplied by Purchaser to Supplier shall remain Purchaser's property. Any processing or transformation by Supplier shall be deemed effected on behalf of Purchaser. If free issue material is being processed with material or objects not belonging to Purchaser, Purchaser shall acquire common ownership in the new material or object in proportion to the value of its material (production costs or purchase price plus VAT) in relation to the value of the other material at the time of processing.
- 12.2 If free issue material is being commingled with material not belonging to Purchaser, Purchaser shall acquire common ownership in the new material in proportion to the value of its material in relation to the value of the other material at the time of commingling. If the materials are commingled such that Supplier at law becomes the sole owner of the new commingled material, it is hereby agreed that Supplier shall transfer to Purchaser partial co-ownership in proportion to the value of the input materials.

13. Drawings, Manufacturing Equipment, Tooling provided by Purchaser

13.1 All data, drawings, schemes, manufacturing equipment, tools, patterns etc. provided by Purchaser to Supplier in connection with the manufacture of the Supply shall remain Purchaser's property and may not be used for other purposes, copied or made available to third parties. Upon request they shall be returned to Purchaser.

13.2 Supplier shall clearly mark all manufacturing equipment, tools or patterns belonging to Purchaser as property of Purchaser and insure these objects at replacement value and at its cost, against fire, water damage or theft. Supplier hereby assigns its insurance claims to Purchaser and Purchaser accepts the assignment.

Supplier shall in due time and at its cost inspect, maintain and repair Purchaser's manufacturing equipment and tools being in its possession and report any breakdowns immediately.

14. Drawings and other Technical Documents of Supplier

14.1 Unless otherwise agreed, Supplier shall, prior to the manufacture of the Supply, submit the shop drawings to Purchaser for approval. Such approval shall not relieve Supplier from its responsibility regarding their fitness and feasibility for the intended purpose..

14.2 The final drawings, maintenance and operating instructions, spare parts lists required for the proper maintenance of the Supply as well as all documents and certificates agreed shall be handed over, without any additional charge, to Purchaser at the agreed date, failing such date, latest upon delivery.

14.3 Work products, including inventions, know-how and copyrights, resulting from development or project orders shall become Purchaser's property. Purchaser shall be entitled to file in its own name and for its own account applications for pertinent industrial property rights. Supplier shall submit and, if necessary, sign, all documents required for such applications, respectively, assign to Purchaser, free of charge, any industrial property rights pursuant the present terms and conditions.

15. Infringement of Third Party Industrial Property- or Copy-Rights

15.1 Supplier shall indemnify, defend and hold Purchaser harmless from and against all liabilities, costs, damages, claims and expenses (including court costs and legal expenses and any settlement of such claim or action) incurred by Purchaser in respect of any claim or action brought by a third party against Purchaser or its customer alleging that the Supplies or their use by Purchaser or Purchaser's customer infringe the intellectual property rights of such third party. Notwithstanding the foregoing, Supplier shall not be liable to the extent that the infringement results from the manufacture of the Supplies in accordance with instructions received from Purchaser and Supplier (having taken all reasonable precautions) could not have known that following these instructions would result in an infringement of a third party's intellectual property rights.

15.2 The Parties will inform each other forthwith of all actual or alleged infringements of third party rights of which they become aware. Supplier will assist Purchaser in its investigation, defense or handling of any such claim, including the provision any documents needed by Purchaser to defend the action.

- 15.3 If Purchaser selects its own legal counsel, Supplier's indemnification extends to the reasonable costs and fees associated with such representation. If Purchaser does not select its own legal counsel, Purchaser will give Supplier sole conduct of the defense of any such claims or actions.
- 15.4 Upon Purchaser's request, Supplier shall specify any and all intellectual property rights known or becoming known to it, which are used in the design or manufacture of or which otherwise affect or relate to the Supplies.
- 15.5 In the event of a claim of infringement of any third party rights that is communicated to Supplier, Supplier shall take the needed steps to ensure for Purchaser a non-infringing source of supply, which may involve securing the needed licenses (if any), redesign of the product, or other steps Supplier deems necessary to ensure that a non-infringing product is delivered to Purchaser

16. Export Control

- 16.1 Supplier undertakes to Purchaser to comply with all applicable national, European and US-American export control regulations, including all European or US-American sanction- or restricted persons lists („Export Control Regulations“).
- 16.2 Supplier undertakes to inform Purchaser forthwith - indicating the specific AL- or ECCN number - if a Supply or components thereof are listed in Annex I and IV of the Export Control List (“Ausfuhrliste”) or similar lists, such as the Commerce Control List (CCL).
- 16.3 Supplier undertakes to inform Purchaser immediately of any circumstances of which he gains knowledge prior to or after conclusion of the contract, likely to constitute an actual or possible breach of Export Control Regulations. Likewise, Purchaser shall inform Supplier of any such circumstances.
- 16.4 In case circumstances become known giving rise to the assumption of an actual or presumed violation of Export Control Regulations, Purchaser may postpone the delivery of the Supply for a reasonable period necessary to assess the possible violation.
- 16.5 If violations of Export Control Regulations have been established or cannot be excluded, Purchaser may, at its election, withdraw from the contract or rescind those partial deliveries presumably constituting a breach of Export Control Regulations. Supplier shall indemnify and keep Purchaser harmless against any damage resulting from the non- or faulty performance of its obligations under this Clause 16. The scope of the damages to be compensated shall include the compensation of all necessary and reasonable expenses incurred by Purchaser, in particular costs and expenses in connection with its defense as well as any administrative or criminal fines and penalties.

17. Confidentiality, Publicity

- 17.1 The Parties commit themselves to treat as business secrets and to keep confidential all commercial and technical information of the other Party, which comes to their knowledge during the course of their business relationship unless

such information is or becomes public knowledge without fault of the Party having received such information.

The client marks documents that are subject to confidentiality according to a uniform scheme:

C1 – basic protection requirement, according to the confidentiality level of "internal". - Unmarked documents are to be treated like C1.

C2 – increased protection requirement, according to the confidentiality level of "confidential".

C3 – highest protection requirement, according to the confidentiality level of "strictly confidential".

17.2 Drawings, patterns, jigs, samples and similar objects shall not be disclosed or otherwise made available to third parties without the prior written consent of the Party, owning them. Reproduction of such items is permitted only if agreed with the Party owning them and is in all cases subject to compliance with applicable copyright laws.

17.3 Supplier shall include obligations equivalent to Clause 17.1 and 17.2 in all contracts with subcontractors and will ensure that all sub-contractors are contractually obliged to comply with the same.

17.4 Without Purchaser's prior consent, Supplier shall not publish in any that Supplier has contracted with or has been supplying the Supplies to Purchaser, unless such publication is required by mandatory law.

17.5 The terms of this Clause 17 shall survive the expiration or termination of any supply contract.

18. IT-Security, Data Protection

18.1 The Supplier warrants to take appropriate technical, organizational and legal measures to ensure the confidentiality, availability, integrity and authenticity of information received and to prevent unauthorized access by third parties.

18.2 Should one party receive access to personal data of the other party within the contract, they shall comply with the statutory provisions on data protection.

19. Force Majeure

19.1 The Parties shall not be liable for excusable delays caused by Force Majeure. As events of Force Majeure shall be considered unforeseeable and inevitable events occurring after conclusion of the contract, such as acts of God or the public enemy, restrictions imposed by public authorities or an occurrence of similar nature and effect.

19.2 Supplier shall immediately inform Purchaser of any circumstances of which it gains knowledge and which will or after time may lead to an excusable delay. Supplier shall further exert its best efforts to minimize the effects of such excusable delay. In

addition, Supplier, upon request, shall at all times inform Purchaser of any further circumstances likely leading to a delay, as well its pertinent contingency- and emergency plans. Supplier shall, in particular, inform Purchaser immediately and comprehensively of current or potential labor conflicts , which may delay or make impossible the timely delivery.

- 19.3 If an event of Force Majeure prevents one of the Parties for more than 2 months from fulfilling its contractual obligations and provided the Parties cannot agree on the further procedure, the other Party shall be entitled to rescind or terminate the contract forthwith.

20. Social Accountability

- 20.1 Supplier commits to perform the contract in compliance with the Directives of the UN Initiative Global Compact and the set of principles and rights approved by the International Labor Organization (ILO) in its “Declaration on fundamental principles and rights at work”.
- 20.2 Supplier shall ensure that its employees, sub-contractors, advisors or agents do not offer, make or grant any inappropriate payments or other benefits for personal use or the benefit of third parties in view of obtaining or maintaining a contract; Supplier shall further make sure that said persons do not accept such payments or benefits.
- 20.3 In case of breach of an obligation pursuant to the preceding Clause 20.2, Purchaser shall be entitled to claim from Supplier, or withhold from his payments, an amount equivalent to the inappropriate payments, at least, however a penalty of 3 % of the contract price. In addition, Purchaser shall be entitled to rescind the pertinent contract in whole or in part.
- 20.4 Supplier shall impose the obligations pursuant to this Clause 20 also on its sub-suppliers and sub-contractors and upon Purchaser’s request, shall provide evidence thereof.

21. Miscellaneous

- 21.1 If any provision hereof or any partial provision is or is held by any competent court or authority to be invalid or unenforceable, such provision or partial provision will be deemed null and void, the remaining portions hereof continuing to be in full force and effect. If required, the Parties shall replace such invalid or unenforceable provision with a valid and enforceable provision having similar economic consequences, provided that the content of these terms and conditions is not materially altered.
- 21.2 No delay or omission of Purchaser to exercise any right or remedy granted under the contract and these terms and conditions shall operate as a waiver of such rights, and every right and remedy of Buyer provided herein shall be cumulative, concurrent and in addition to any other further rights and remedies available at law or in equity.
- 21.3 Without the prior written consent of Purchaser Supplier shall not, in whole or in part, assign the rights and obligations under a supply or service contract, or subcontract a substantial portion thereof, to any third party.

21.4 In case of erection- or other services at Purchaser's or a third party site, Supplier shall, in addition to these terms and conditions, observe the safety regulations applicable at the erection- or work place.

22. Applicable Law, Place of Venue and Jurisdiction

22.1 The contract between Purchaser and Supplier shall be governed by and construed in accordance with the laws of Germany. If Supplier has its registered place of business outside Germany, the contract shall be subject to the United Nations Convention on the International Sale of Goods (CISG) with respect to all matters to which the Convention relates and by the substantive laws of Germany with respect to all other matters.

22.2 The Parties agree that the courts having jurisdiction over Purchaser's principal place of business in Butzbach shall have exclusive jurisdiction for any action or proceedings commenced out of or in connection with any contract between them. Purchaser, in addition, shall be entitled to bring action in any other German or foreign court having jurisdiction over the subject-matter in dispute.

22.3 Notwithstanding Clauses 22.1 and 22.2 above, in the event that a third party brings to court a claim against Purchaser for death, personal injury or property damage resulting from a product defect ("Product Liability") or for infringement of intellectual property rights, Purchaser may, at its discretion, take all legal actions before said court necessary to enforce the indemnification against Supplier. In such a case the laws applied by said court shall govern exclusively the rights and obligations of the parties involved.

Effective as of September 1, 2020