

# GENERAL TERMS AND CONDITIONS OF PURCHASE

Applicable in business dealings with entrepreneurs, juridical persons under public law and public-law special funds.

## 1. GENERAL

Exclusively the General Terms and Conditions of Business (GTCB) of ORBITALSERVICE, including these Terms and Conditions of Purchase, apply between ORBITALSERVICE GmbH (hereinafter ORBITALSERVICE) and the respective business partner. Deviating terms and conditions shall not become part of the contract; in particular, they shall not become part of the contract even if not explicitly rejected by ORBITALSERVICE in individual cases. In particular, the acceptance of goods and payment for these shall not constitute consent to deviating terms and conditions of purchase.

## 2. CONCLUSION OF CONTRACT AND AMENDMENTS TO THE CONTRACT

2.1 Orders, sales agreements and delivery call-offs as well as their amendment and extension require the written form.

2.2 All forms of verbal agreement – including retrospective amendments and extensions to the ORBITALSERVICE Terms and Conditions of Purchase – shall only be valid following written confirmation by ORBITALSERVICE.

2.3 The requirement of the written form shall also be satisfied through remote data transfer or facsimile.

2.4 Cost quotations are binding and free of charge, unless an explicit agreement has been made to the contrary.

2.5 If the supplier does not accept the order within 2 weeks of receipt, ORBITALSERVICE shall be entitled to revoke the order.

2.6 Delivery call-offs within the scope of an order and call-off plan shall become binding if the supplier does not object to them within two working days of their receipt.

2.7 The agreement on quality, work health and safety, environmental protection and social responsibility for suppliers (quality assurance agreement), delivery and packing regulations of ORBITALSERVICE are integral parts of the contract.

## 3. DELIVERY

3.1 The GTCB of ORBITALSERVICE shall apply for delivery and service. Deviations from orders and sales agreements are only permitted with the prior, written consent of ORBITALSERVICE.

3.2 Agreed dates and periods are binding. Authoritative for adherence to the delivery date or delivery period is receipt of the goods by ORBITALSERVICE. If delivery has not been agreed „free works“ (DAP or DDP as per Incoterms 2010), the supplier must make the goods available in good time with consideration for the loading and dispatch times to be agreed with the carrier.

3.3 If the supplier has assumed assembly or installation and in the absence of any agreement to the contrary, the supplier shall bear all necessary ancillary costs such as travel costs, provision of tools as well as living allowances.

3.4 If agreed dates are not adhered to, the statutory regulations shall apply. If the supplier foresees problems as regards production, the supply of input materials, adherence to the delivery deadline or similar circumstances that could prevent him from delivering on time or in the agreed quality, the supplier must inform the ORBITALSERVICE department responsible for the order immediately and in writing.

3.5 Unconditional acceptance of the delayed delivery or service shall not constitute renunciation of the compensation claims to which ORBITALSERVICE is entitled as a result of the late delivery or service; this shall apply up until complete payment of the remuneration owed by ORBITALSERVICE for the delivery or service concerned.

3.6 Partial deliveries are only permitted with the explicit consent of ORBITALSERVICE or if they are reasonable.

3.7 Subject to the reserve of provision of evidence to the contrary, the figures ascertained by ORBITALSERVICE during the goods inward check are authoritative for quantities, weights and dimensions.

3.8 ORBITALSERVICE has a right to use software, belonging to the scope of delivery and including its documentation, in the scope permitted by law (Sections 69a et. seq. UrhG (Copyright Act)).

3.9 ORBITALSERVICE also has the right to use this software, including documentation, with the agreed performance characteristics and in the scope necessary for use of the product in accordance with the contract. ORBITALSERVICE is also entitled to create a backup copy without an explicit agreement.

## 4. FORCE MAJEURE

4.1 Force majeure, excusable operational disturbances, unrest, official measures and other unavoidable occurrences shall release ORBITALSERVICE from the obligation to accept on time for the duration of their existence. During such occurrences as well as for a period of two weeks following their ending, ORBITALSERVICE is entitled – without prejudice to the other ORBITALSERVICE rights – to withdraw from the contract in part or in full in so far as these

occurrences are not of immaterial duration and the ORBITALSERVICE requirement is reduced significantly due to the related alternative procurement.

4.2 The rulings of point 4.1 also apply in the event of industrial disputes.

#### **5. NOTIFICATION OF DISPATCH AND INVOICING**

The information in the GTCB, orders and delivery call-offs of ORBITALSERVICE is applicable. A single copy of the invoice must be sent to the respective address indicated, stating the invoice number, ORBITALSERVICE order and article number as well as other allocation characteristics.

#### **6. PRICING AND PASSING OF RISK**

In the absence of any special agreement, the prices are to be understood as delivered to the said location (DAP as per Incoterms 2010) including packing. The prices do not include value added tax. The supplier shall bear the material risk up until acceptance of the goods by ORBITALSERVICE or the ORBITALSERVICE representative at the location to which the goods are to be delivered as per the order.

#### **7. TERMS AND CONDITIONS OF PAYMENT**

In the absence of any special agreement, invoices will be settled within 14 days with 3% cash discount or within 30 days net, respectively as from the due date and receipt of invoice and the goods or provision of the service. Payment shall be made subject to auditing of the invoice. In other respects the GTCB of ORBITALSERVICE shall apply.

#### **8. DEFECT CLAIMS AND RECOURSE**

8.1 Acceptance shall be subject to the reserve of examination for freedom from defects, in particular for correctness and completeness, in so far and as soon as this is possible in the ordinary course of business. Defects will be reported by ORBITALSERVICE immediately following discovery. As such, the supplier hereby renounces the objection of late notification of defects.

8.2 The statutory provisions concerning material and legal defects shall be applicable, provided nothing to the contrary is regulated below.

8.3 ORBITALSERVICE has a fundamental right to choose the form of subsequent fulfilment.

8.4 If the supplier does not start work on removal of the defect immediately following request to do so by ORBITALSERVICE, ORBITALSERVICE shall, in urgent cases - in particular for the purpose of avoiding acute risks or greater damage - be entitled to carry out this work itself or to have it carried out by a third party at the expense of the supplier.

8.5 In cases of legal defects, the supplier shall also indemnify ORBITALSERVICE against any claims of third parties, unless he is not responsible for the legal defect.

8.6 Except in cases of fraudulent intent, defect claims shall become statute barred after 3 years, unless the item has been used for construction in accordance with its normal use and has caused the defectiveness of the construction. The period of limitation shall begin upon delivery of the contractual item (passing of risk).

8.7 If the supplier fulfils his obligation of subsequent fulfilment through replacement delivery, the period of limitation for the goods supplied as replacement shall start over again upon delivery of these goods, unless the supplier has explicitly and appropriately reserved the right, when making subsequent fulfilment, to provide the replacement delivery solely as a gesture of goodwill, in order to avoid disputes or in the interests of continuing the supply relationship.

8.8 If ORBITALSERVICE incurs costs as a result of defective delivery of the contractual item, in particular transport, travelling, work, installation, removal or material costs or costs for a goods-inward check over and beyond the normal scope, the supplier must bear these costs.

#### **9. PRODUCT LIABILITY**

9.1 In the event of product liability claims being asserted against ORBITALSERVICE, the supplier is obliged to indemnify ORBITALSERVICE against such claims. In particular, given the existence of damage caused by a defect to the contractual item delivered by the supplier. In the event of fault-related liability the following rule shall apply: if the supplier is at fault and in so far as the cause of the damage is within the supplier's area of responsibility, he shall bear the burden of demonstrating that there is no fault on his part.

9.2 In the cases as per point 9.1, the supplier shall assume all costs and expenses, including the costs of any legal pursuit.

9.3 Apart from this, the statutory provisions shall apply.

9.4 Prior to a recall action, resulting in part or in full from a defect to the contractual item delivered by the supplier, ORBITALSERVICE shall inform the supplier, give him the opportunity of cooperating and shall discuss efficient execution with him, unless the informing or involving of the supplier is not possible as a result of particular urgency. If a recall action is the result of a defect to the contractual item delivered by the supplier, the supplier shall bear the costs of the recall action.

## 10. RIGHTS OF WITHDRAWAL AND TERMINATION

10.1 In addition to the statutory rights of withdrawal, ORBITALSERVICE is also and in particular entitled under the terms of its GTCB to withdraw if the supplier has discontinued supplies to his customers, if there has been a significant deterioration in the economic position of the supplier or if there is a threat of such with the result that fulfillment of a supply obligation to ORBITALSERVICE is at risk, if the supplier becomes insolvent or over indebted or suspends payments.

10.2 ORBITALSERVICE is also entitled to withdraw or terminate if the supplier applies for the opening of insolvency proceedings or comparable debt relief proceedings concerning his assets.

10.3 If the supplier has provided a partial performance, ORBITALSERVICE shall only be entitled to withdraw from the entire contract if ORBITALSERVICE has no interest in the partial performance.

10.4 If ORBITALSERVICE withdraws from or terminates the contract as a result of the above mentioned contractual rights of withdrawal or termination, the supplier must compensate ORBITALSERVICE for the resulting damage, unless he is not responsible for the creation of the rights of withdrawal or termination.

10.5 Statutory rights and claims shall not be limited by the rulings contained in this point 10.

## 11. PERFORMANCE OF WORK

Persons who perform work on the company premises in fulfilment of the contract must observe the provisions of the respective company regulations. Liability for accidents suffered by these persons on the company premises is excluded, unless these have been caused by intentional or grossly negligent violation of obligations on the part of the legal representatives or vicarious agents of ORBITALSERVICE.

## 12. PROVISION OF MATERIALS

Materials, parts, containers and special packing provided by ORBITALSERVICE shall remain the property of ORBITALSERVICE. These must be used exclusively in the intended manner. The processing of materials and the assembly of parts shall be carried out for ORBITALSERVICE. It is agreed that ORBITALSERVICE shall have joint ownership of the items produced using the ORBITALSERVICE materials and parts in the ratio of the value of the items provided to the value of the overall product; these new items shall be kept by the supplier for ORBITALSERVICE.

## 13. DOCUMENTS AND CONFIDENTIALITY

13.1 All business or technical information made accessible by ORBITALSERVICE (including characteristics that can be seen from any items, documents or software handed over, and other knowledge and experience), must be kept confidential with respect to third parties for as long and in so far as it is not demonstrably public knowledge, and must only be provided to persons in the supplier's own company who must necessarily be involved in their use for the purpose of the delivery to ORBITALSERVICE and who are likewise bound to confidentiality; this information shall remain the exclusive property of ORBITALSERVICE. Such information must not be reproduced or used for commercial purposes without the prior, written consent of ORBITALSERVICE – except for deliveries to ORBITALSERVICE. Upon request by ORBITALSERVICE, all information originating from ORBITALSERVICE (including any copies or records made) and items handed over on a loan basis, must be returned to ORBITALSERVICE or destroyed - immediately and fully. ORBITALSERVICE reserves all rights to such information (including copyright and the right to register industrial property rights such as patents, utility models, semiconductor protection etc.). If these have been made accessible to ORBITALSERVICE by third parties, this reservation of rights shall also apply in favour of these third parties.

13.2 Items produced on the basis of documents prepared by ORBITALSERVICE, such as drawings, models and similar, or on the basis of confidential ORBITALSERVICE information or using ORBITALSERVICE tools or copied tools, must not be used by the supplier himself nor offered or supplied to third parties by him. This shall also apply analogously for ORBITALSERVICE print orders.

## 14. EXPORT CONTROLS AND CUSTOMS

The supplier is obliged to inform ORBITALSERVICE in his business documents of any approval requirements concerning (re-) export of his products under German, European, US export and customs regulations as well as under the export and customs regulations of the country of origin of his products. In this respect, the supplier shall state at least the following information against the corresponding goods items in his quotations, order confirmations and invoices:

- the export list number as per Appendix AL to the German Foreign Trade Ordinance or comparable list items of relevant export lists,
- for US goods the ECCN (Export Control Classification Number) as per US Export Administration Regulations (EAR),
- the commercial-policy origin of his goods and of the components of his goods, including technology and software,
- whether the goods have been transported through the USA, manufactured or stored in the USA or produced with the help of US technology,
- the statistical goods number (HS code) of his goods, as well as

- a contact person in his company for clarification of any questions from ORBITALSERVICE.

Upon request by ORBITALSERVICE, the supplier is obliged to provide ORBITALSERVICE with all additional foreign trade data concerning his goods and their components in writing, as well as to inform ORBITALSERVICE immediately (prior to delivery of corresponding goods affected by this) and in writing of all changes to the above data.

#### 15. COMPLIANCE

15.1 The supplier undertakes to adhere to the respective statutory rulings on data protection and on dealing with employees, environmental protection and health and safety at work, and to work towards reducing lasting effects of his work on humans and animals. To this end, the supplier will set up and further develop a management system within the limits of his possibilities. The supplier shall also observe the principles of the UN Global Compact Initiative. These essentially concern the protection of international human rights, the right of collective bargaining, the abolition of forced labour and child labour, the removal of discrimination during hiring and employment, responsibility for the environment and the prevention of corruption. Further information on the UN Global Compact Initiative is available at [www.unglobalcompact.org](http://www.unglobalcompact.org).

15.2 If a supplier acts unlawfully, repeatedly and/or despite a corresponding warning, and fails to demonstrate that the unlawful action has been rectified as far as possible and that appropriate precautions have been taken to avoid unlawful actions in future, ORBITALSERVICE reserves the right to withdraw from existing contracts or to terminate these immediately.

#### 16. PLACE OF PERFORMANCE

Place of performance is the place at which the goods are to be delivered or the service provided in accordance with the order.

#### 17. GENERAL PROVISIONS

17.1 Should a provision of these terms and conditions and of the further agreements made be or become ineffective, the validity of the other provisions shall remain unaffected. The contract parties are obliged to replace the ineffective provision with a ruling whose economic result corresponds as closely as possible to the ineffective provision. In other respects, the General Terms and Conditions of Business of ORBITALSERVICE shall apply.

17.2 Exclusively German Law shall apply to the contractual relations, subject to exclusion of the conflict of laws provisions and of the United Nations Convention on Contracts for the International Sale of Goods (CISG).

17.3 Place of jurisdiction for all legal disputes arising directly or indirectly from contractual relations based on these Terms and Conditions of Purchase is the headquarters of ORBITALSERVICE or of its branches. The Local Court at the headquarters of ORBITALSERVICE or of its branches is responsible for proceedings before Local Courts. ORBITALSERVICE is also entitled, at its discretion, to take legal action against the supplier at the court at the supplier's registered office of or his branch, or at the court at the place of performance.

Last amended: 02/2012

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