



## **GENERAL TERMS AND CONDITIONS OF PURCHASE OF THE HECKLER & KOCH Group**

**The following conditions apply to all enquiries and orders of the Heckler & Koch GmbH, H&K AG and Heckler & Koch Management GmbH (each referred to as “HK” hereinafter) as of 19<sup>th</sup> April 2024**

### **I) General information, scope of application**

- 1.) These Conditions of Purchase apply to all business relationships with business partners and suppliers of HK (hereinafter referred to as “Supplier”) who are contractors as defined by Section 14 of the German Civil Code (BGB) and supply moveable objects or render services for HK.
- 2.) Contracts on deliveries and services with suppliers are exclusively made either with the index of the individually negotiated and signed contract or – in the absence of such – with the content of the order from HK and as a supplement to the following Conditions of Purchase. The Supplier accepts these Conditions of Purchase upon fulfilling the order at the latest, in particular upon delivery or partial delivery. Individual agreements made with the suppliers in individual cases take precedence over these Conditions of Purchase.
- 3.) Divergent or opposing conditions of the Supplier shall only apply if HK explicitly recognises their application in written form. These also do not apply if HK accepts or approves the goods without reservation, or pays for them.
- 4.) These Terms and Conditions of Purchase also apply as a framework agreement for all future business with the Supplier, even if they are not agreed upon again separately or referred to.
- 5.) References to the application of statutory regulations are only for clarification. The statutory regulations also apply in addition without such clarification unless they are directly modified or explicitly precluded in these Conditions of Purchase.

### **II) Conclusion of contract and changes to orders**

- 1.) If the parties do not conclude an individually negotiated, written contract, the contract is either established through HK’s order in response to a quotation from the Supplier or by the acceptance of HK’s order by the Supplier. If HK’s order requests an order confirmation, the contract is only deemed to have been concluded once the Supplier has confirmed the order with unchanged contents.
- 2.) All quotations of the Supplier must be free of charge and binding. If the order confirmation differs from the purchase order, the content of the order confirmation is only bound to the offer if HK has explicitly agreed to the deviation in at least text form.
- 3.) If orders from HK do not contain an explicitly stated commitment period, then HK is only committed for the duration of two weeks as of receipt of the order. With E-mails, the date of sending is deemed to be the day of receipt, unless the Supplier demonstrates to HK that it received the order at a later point in time. Receipt of the declaration of order acceptance by HK is decisive for punctual receipt. Acceptances which have been received after the period has elapsed are deemed to be a new quotation and always require explicit acceptance by HK in at least text form in order to effectively conclude the contract.
- 4.) The Supplier must adhere to HK’s specifications in the quotation precisely. If he intends to diverge from these, he must request HK to confirm the deviation in at least text form with explicit reference to the order.
- 5.) HK is entitled to change the time and place of delivery as well as the type of packaging at any time by written notice with a deadline of at least fourteen calendar days before the agreed delivery date. The same applies to changes in the product specifications so long as these can be implemented by the Supplier under the Supplier’s normal production process and without significant extra effort. HK will reimburse the Supplier for the additional costs resulting from the alteration, so long as these costs are proven and reasonable. If such changes lead to delays in delivery which, under the Supplier’s normal production and business operation, cannot be avoided with reasonable efforts, the originally agreed delivery date will be pushed back accordingly. The Supplier shall notify HK in writing of any expected additional costs or delays, which must be carefully estimated. The Supplier must notify HK in good time prior to the delivery date, albeit no later than three working days after receipt of the change request.
- 6.) When sending a quotation to HK or upon receiving a query or order by HK, the Supplier shall send a copy of his arms production permit and/or arms trading permit as per § 21 of the Arms Act (WaffG) to HK unrequested, if such a permit is required for his operations.

- 7.) Upon acceptance of the order, the guideline on contractor management becomes part of the contract. The guideline on contractor management can be downloaded from the following link, <https://www.heckler-koch.com/en/footer/terms-and-conditions.html>. Prior to execution of the order, the documents "External Company Declaration" and "Instruction/Instruction Protocol" must be completed, at the latest on site at HK. Before starting work, the completed documents must be handed over to the responsible office at HK. The supplier must take note of and comply with the document "Occupational Safety - Occupational Safety Regulations for External Companies".

### **III) Delivery conditions, delivery times and exceedance of delivery time, packaging and transfer of risk**

- 1.) Unless agreed upon otherwise in writing, the delivery is to be made to CPT Oberndorf (INCOTERMS 2020).
- 2.) The delivery time agreed upon in the written contract or specified by HK in the order is binding and includes delivery to the place of performance. Subject to any differing agreements, the delivery time begins with the date the purchase order is received. Decisive for the observance of the delivery time is the complete receipt of goods at the agreed place of delivery. Fulfilment of the delivery obligation also includes the transfer of the technical documentation, such as Operator's manuals, CE declarations of conformity as well as materials for performing product and quality tests, test reports, technical terms of delivery, or other documents which HK may require in individual cases. Deliveries of moveable objects which usually require assembly or installation shall be installed by the Supplier ready for operation at the place of performance and will be checked for their functionality.
- 3.) Deliveries ahead of time, as well as partial, excess or short deliveries shall only be permitted with HK's prior written consent, in which case any legal entitlement of the Supplier to consent is excluded.
- 4.) The Supplier is obliged to inform HK without delay if any circumstances arise or become known to it which could make it impossible to adhere to the agreed times and/or deadlines. This notification must be made in at least text form. The agreed times/deadlines will not be extended by this notification.
- 5.) If the delivery date is determined by calendar, the Supplier falls into arrears with delivery at the end of that day, without a reminder being required.
- 6.) If it is not possible to comply with the delivery times, HK will be entitled to demand the Supplier to pay a contractual penalty (taking compensation for damages into consideration), unless the Supplier is not at fault for the delay. This amounts to 0.2% of the net invoice value for the delayed delivery per commenced business day up to a maximum of 5% of the net invoice value. HK need not assert the right to impose the contractual penalty at the time of acceptance or inspection; instead it will suffice to do so by the time the final payment is made. Further legal claims of HK remain unaffected.
- 7.) If the Supplier is responsible for the delayed delivery, the necessary express freight, air freight or express fees as well as the added expenses of shipping to an address other than the agreed address necessitated by the delay shall be borne by the Supplier.
- 8.) If, at HK's judgement, the delay significantly jeopardises the scheduling of HK's own obligations, then HK shall be entitled to withdraw from the contract. If the Supplier is responsible for the delay, the Supplier shall bear the additional expenses of procuring a replacement.
- 9.) The acceptance of late deliveries or services shall not constitute a waiver of any claims.
- 10.) If it is expected that the delivery date will be missed by over 30 calendar days due to force majeure or other circumstances for which the Supplier is not at fault, HK is entitled to withdraw from the contract in whole or in part, or to delay the delivery to a later point in time. The Supplier must prove that it is not at fault.
- 11.) The Supplier is obliged to take reasonable care when packaging all deliveries and to label all deliveries with handling and loading instructions and freight information. In the event that HK so desires, the Supplier shall, at its own expense, ensure proper recovery and recycling of packaging in accordance with the existing laws, in particular the Closed Substance Cycle and Waste Management Act as well as the Packaging Ordinance.
- 12.) Even if dispatch has been agreed, the risk is only transferred to HK when the goods are handed over to HK at the agreed place of delivery. The Supplier must take out adequate transport insurance at their own expense. In the case goods being delivered which usually require assembly or installation, the risk is only transferred to HK upon signing of the acceptance report. The Supplier must take out adequate installation insurance at its own expense.

#### **IV) Models and drawings; documents and manufacturing equipment created by the Supplier**

- 1.) HK reserves ownership of and copyright to drawings, images, calculations, descriptions and other documents (hereinafter referred to as “Order Documents”) which HK relinquishes to the Supplier. The Supplier must check all documentation which HK provides it with for completeness and dimension-related accuracy in a punctual manner prior to the start of production, and must correct or supplement said documentation as necessary after consultation with HK.
- 2.) If any Order Documents are created by the Supplier and paid for by HK directly or in the unit price, either in whole or in part, then these shall become property of HK upon creation and may only be used to fulfil orders from HK.
- 3.) The Supplier must keep the Order Documents secret from third parties, even after the term of the order has elapsed. The Supplier may not make these accessible to third parties without the prior express written consent of HK or use or reproduce them or have them used or reproduced by third parties. The approval must be on hand in at least text form.
- 4.) Manufacturing equipment made by the Supplier according to information or documents of HK, such as forging dies, templates, matrices, models, samples, tools, moulds, welding jigs, programs and similar, may only be used by the Supplier to fulfil orders from HK. The Supplier may not use such manufacturing equipment for other purposes or offer it to third parties or otherwise make it accessible.
- 5.) In the absence of an alternate agreement, the Order Documents must be returned to HK unrequested after termination of the contract, or must be destroyed at HK’s instruction, the only exception being documents which the Supplier must retain under statutory retention obligations, as well as the storage of data for backup purposes as part of normal data backup.
- 6.) The Supplier shall be liable for the loss or misuse of the above-mentioned Order Documents in accordance with statutory regulations. As long as the Supplier is in possession of the Order Documents, the Supplier is obliged to insure them against fire and theft for HK free of charge.

#### **V) Price, offsetting, right of retention**

- 1.) The price shown in the purchase order is binding (fixed price) and in the absence of an alternate written agreement, includes the costs for delivery and transport to the place of performance as well as packaging. In the case goods being delivered which usually require assembly or installation, this also applies to the costs of assembly, installation and operator training.
- 2.) If the Supplier renders deliveries and/or services which HK uses to fulfil orders for legal entities under public law, and this is recognisable to the Supplier, the agreed price must be permissible in accordance with the provisions of public-sector pricing law (PR Ordinance No. 30/53), as amended at the time the contract was concluded.
- 3.) The Supplier grants its consent that the authority competent for pricing and price monitoring may view the business documents needed to verify the permissibility of the price as per PR Ordinance No. 30/53, may make duplicates of or excerpts from these documents, and may inspect the Supplier’s premises.
- 4.) In the case of counterclaims, in particular the assertion of claims for defects, HK shall be entitled to offset or withhold payments to the appropriate extent. In the case of defects, this shall apply with respect to the entitlement to rectification of defects up to a maximum of three times the value of the estimated costs of defect rectification.
- 5.) The Supplier is only entitled to offsetting against claims from HK or to asserting a right of retention if and to the extent that its claim is undisputed or is legally recognised.

#### **VI) Documents and invoices and payment conditions**

- 1.) HK’s order number, order date, item number (ident. no.), delivery quantity and weight (gross and net), supplier number, supplier name and delivery address must be indicated on all order confirmations, delivery papers and invoices.
- 2.) If the ordered goods are products which originate from the United States, this must be indicated by the Supplier in the quotation, in the order confirmation, on the delivery note and on the invoice.

- 3.) Invoices shall be sent in single copy, stating the order number, order date, the number of the delivery note as well as the supplier number, quantity and exact description of the goods delivered, and sales tax must be shown separately. They must be sent to the billing address specified by HK.

As an option, invoices may also be sent to [RECO@heckler-koch-de.com](mailto:RECO@heckler-koch-de.com). A prerequisite is that the invoices/credit notes are sent to HK in PDF format (in good quality – 300dpi) and that only ONE invoice is sent per E-mail. Attachments other than the invoice may be included with the E-mail, but they must explicitly named “attachment”. It is also possible to send the invoice with attachment/delivery note in a single document with multiple pages to [RECO@heckler-koch-de.com](mailto:RECO@heckler-koch-de.com). Exclusively invoices may be sent to the aforementioned E-mail address.

- 4.) Any payment periods shall only begin to run once HK receives an appropriate invoice which complies with the above-mentioned provisions as well as the principles of Section 14 of the German Value Added Tax Act (UStG). The invoice must include a detailed list of the services rendered. HK can only process invoices under this condition. The Supplier is responsible for all consequences of non-fulfilment of this obligation unless they can prove that they were not responsible for the non-fulfilment.
- 5.) Payments shall be made by bank transfer. Unless agreed upon otherwise, the following payment conditions shall apply:

With a 3% discount if paid within 14 days after receipt of the goods and invoice in due form, a 2% discount if paid within 21 days or no discount if paid within 30 days.

The Supplier shall be aware that payments from HK are made on a weekly cycle. Due to the payment frequency, the Supplier agrees that HK may also assert the agreed discounts if the payment is made during the calendar week in which the discount period elapses.

- 6.) The payment period is deemed to have been complied with once the sum of money has been sent by the financial institution handling the payment.
- 7.) Advance payments agreed upon will only be due for payment upon receipt of a corresponding bank guarantee, if requested by HK.
- 8.) Payments do not imply recognition of the contractual conformity of the service or correctness of the calculation. The rights to which HK is entitled, in particular warranty rights, are not affected by this.
- 9.) Assignment of rights and obligations of the Supplier outside the scope of application of Section 354a of the German Commercial Code (HGB) as well as the transfer of obligations of the Supplier are only permitted with HK’s prior written consent.

## **VII) Incoming goods check, inspection**

- 1.) If HK is obliged to examine the goods and give notification of defects in accordance with Section 377 Para. 1 HGB, HK will check whether the goods received correspond to the type and quantity ordered, and whether outwardly visible transport damage or immediately recognisable defects without delay upon receiving the goods. The extent of the incoming goods inspection (e.g. spot checks) is determined at the discretion of HK in consideration of the periods of time specified in this article. If the permissible quality values are not complied with, HK reserves the right to reject the entire delivery.
- 2.) If HK discovers a defect during the aforementioned checks or later, HK will inform the Supplier of it.
- 3.) Notifications of defects are to be given within one month of delivery or, if the defect is only noticed during handling, processing or use, then within one month of its detection.
- 4.) HK is not obliged to conduct any checks and notifications for the Supplier upon receipt of the goods beyond those mentioned above.
- 5.) Notwithstanding any payments on our part, acceptance takes place exclusively via explicit written declaration by HK.

### **VIII) Quality**

- 1.) Unless agreed upon otherwise, the Supplier shall continuously keep the deliveries and/or services in line with the state of the art and inform HK of improvement and technical modification possibilities. The Supplier shall notify HK of changes to production procedures and equipment, material or supplied parts for the deliveries and/or services, prior to relocations of production sites, furthermore prior to changes to quality assurance measures, in particular procedures or equipment for checking the deliveries and/or services or such procedures which could affect them in sufficiently good time that HK can check whether or not the changes could have a detrimental effect. The notification obligation does not apply if the supplier can demonstrably rule out such detrimental effects.
- 2.) If, in its order, HK requires the Supplier to comply with quality assurance standards (ISO 9000 et seq. and/or AQAP [Allied Quality Assurance Publications]), then this will be binding for the Supplier.

### **IX) Retention of title**

- 1.) Retentions of title of the Supplier shall only apply if HK explicitly approves this in individual cases in written form.
- 2.) Material and parts provided by HK remain property of HK and are to be stored separately free of charge, and marked and managed as property of HK. Provided materials and parts may only be used as intended. Processing, mixing or combining (further processing) of provided items by the Supplier shall be done for HK. It is agreed that HK is co-owner of the products manufactured using the provided parts, which the Supplier shall store for HK, in relation of the value of the parts provided to the value of the overall product.

### **X) Warranty and guarantee**

- 1.) The Supplier shall ensure that the deliveries and services conform to the state of the art, the agreed specifications, samples or other agreed characteristics, and in particular any drawings, plans and requirements as well. The Supplier shall ensure that its deliveries and/or services are free of defects, in particular in design, production and material, and that they are suited for the specific purposes for which HK ordered them.
- 2.) To comply with its aforementioned obligations, the Supplier shall – by such means as careful selection and supervision of its staff – arrange the manufacturing process of the delivery item in a manner which rules out the possibility of detrimental deviation from the intended characteristics of the delivery item. It assumes responsibilities for failures and omissions of its representatives and/or subcontractors in the same way as it does for its own failures and omissions.
- 3.) In case of defects, HK is unconditionally entitled to the statutory claims. In derogation from this, however, the warranty period is 36 months, unless the Supplier provides HK with a longer warranty or guarantee period.
- 4.) In the case of service and work delivery contracts, the warranty period begins upon the day of final acceptance. In all other cases, it begins upon proper use by HK, albeit by no later than 3 months of delivery.
- 5.) The limitation period is suspended upon the Supplier's receipt of a notification of defects. The limitation period shall not elapse before receipt of the Supplier's notification concerning the result of the inspection; otherwise it shall elapse upon the actual remedy of the defect, final rejection of HK's claims by the Supplier or refusal to continue negotiations on HK's claims.
- 6.) In the case of a replacement delivery and removal of defects, the warranty period for replaced and repaired parts begins again unless the behaviour of the Supplier causes HK to assume that the Supplier did not feel obliged to take this measure, but carried out the replacement or remedying of defects as a gesture of goodwill, or for similar voluntary reasons.
- 7.) For quality and durability warranties, the statutory regulations of Section 651, 443 BGB shall apply.
- 8.) Remedy of defects is carried out as subsequent performance. HK is entitled to choose between immediate rectification of a defect and replacement delivery free of charge, so long as this would not lead to demonstrably unacceptable results taking into account Section 439 Para. 3, Section 635 Para. 3 BGB. If HK does not assert its right to choose, the Supplier shall decide on the form of subsequent performance and shall take the legitimate interests of HK into account while making the decision. The costs of subsequent performance, in particular travel and transport costs, shall be borne by the Supplier. If defects cannot be remedied, or if further remedying attempts/replacement deliveries are not reasonable to HK due to the threat of loss, HK shall be entitled to a reduction of the price, cancellation of the order and, if necessary, assertion of damage compensation claims. In addition, the statutory provisions apply.

- 9.) In urgent cases, HK shall also be entitled to carry out repairs or restoration work itself directly against reimbursement of costs, or to procure a replacement itself without having to request the Supplier in advance. An urgent case within the meaning of this provision is when enacting our own contractual obligations to mitigate the damage is urgently needed after due consideration (e.g. risk to operational safety or impending occurrence of disproportionate damages). HK shall inform the Supplier of such circumstances without delay, or in advance if possible.
- 10.) The acceptance or approval of designs or samples or calculations submitted shall not constitute a waiver of warranty claims.

#### **XI) Supplier recourse**

- 1.) In addition to claims for defects, HK is entitled without restriction to legally stipulated recourse claims within the supply chain (supplier recourse as per Sections 445a, 445b, 478 BGB). In particular, HK is entitled to demand exactly the type of subsequent performance (rectification or replacement delivery) from the Supplier which it owes its customers in individual cases. HK's statutory right to choose (Section 439 Para. 1 BGB) is not restricted by this.
- 2.) Before HK recognises or fulfils a claim for defects asserted by its customer (including reimbursement of expenses as per Sections 445a Para. 1, 439 Paras. 2 and 3 BGB) concerning the delivery/service of the Supplier, it shall notify the Supplier, providing a brief description of the situation at hand, and request a written statement. If a substantiated statement is not made by a reasonable deadline set by HK and an amicable solution is not reached, then a claim for defects actually granted to the customer by HK shall be deemed to be owed to the customer by HK, and said claim shall in turn be owed by the supplier to HK in the scope of recourse. In this case, the Supplier shall be obliged to render evidence to the contrary.
- 3.) HK's claims from supplier recourse also apply if the defective goods are processed further by HK or another contractor, e.g. by installing them in another product.

#### **XII) Product and producer liability, insurance**

- 1.) The Supplier is responsible for all claims asserted by third parties due to personal injury or property damage that can be traced to a faulty product they have supplied. The Supplier is obliged to indemnify HK of the liability resulting from this, and in particular to reimburse the expenses which result from or in connection with a claim by a third party and any necessary recall and/or service actions carried out by HK. Further legal claims remain unaffected.
- 2.) If a claim is made against HK by a third party, the Supplier shall assure HK its comprehensive and immediate cooperation in clarifying the matter at hand and in handling the case.
- 3.) If the Supplier receives information in connection with the goods which – irrespective of the reason – gives cause for doubt as to its marketability or product safety, they are obliged to immediately inform HK without restriction. If the Supplier is not also the manufacturer of the goods, it shall ensure the transfer of and compliance with this obligation to their previous vendors all the way to the manufacturer.
- 4.) If there is reason to believe that a delivery and/or service does not conform to applicable safety requirements, or that the use of the delivery and/or service as intended could result in a significant risk, HK may demand proof that the regulations on device and product safety have been observed from the Supplier. If the Supplier fails to render this proof within a reasonable period of time, HK shall be entitled to withdraw from the contract.
- 5.) The Supplier is obliged to take out, at its own expense, a business and product liability insurance policy with coverage appropriate for the sum of the order. Unless otherwise expressly agreed, the insurance does not need to cover recall risk or criminal or similar damages. If there is a long-term business relationship between the Supplier and HK, the sum of coverage must amount to at least EUR 10 million per case of personal/material damages across the board. The Supplier is to maintain said policy as long as it can be expected that any claims may be asserted. The Supplier shall send HK a copy of the liability policy upon request.

#### **XIII) Liability and compensation for damages**

- 1.) If HK incurs costs as a result of a defective delivery, in particular transport, travel, labour and material costs or costs for an incoming goods inspection which exceeds the usual scope, the Supplier shall bear these costs in particular. In addition, in the absence of guaranteed characteristics HK can claim damages for non-performance.

- 2.) HK is also entitled to assert claims for damages due to non-fulfilment, as well as damages caused by defects. Claims for damages also comprise all disadvantages that HK incurs through delivery which is not compliant with the order, improper packaging and/or returning the defective delivery as well as non-compliance with other obligations.
- 3.) The Supplier shall also pay HK expenses which HK had to bear in relation to its customer. The expenses shall be paid on first request and upon submission of the appropriate documentary evidence. If a third party claims damages from HK, the Supplier must indemnify HK on first demand to the extent to which the Supplier is directly liable. It is expressly stated that contractual penalties may be asserted against HK due to a delayed or defective delivery as well as non-compliance with quality requirements.
- 4.) Other statutory or contractual rights of HK remain unaffected by the provisions of this Article IX).

#### **XIV) Right of withdrawal, in particular due to violations of export regulations and the REACH Regulation**

- 1.) HK is entitled to the cancel the contract at any time by written declaration stating the reason if HK can no longer use the ordered products in its business as a result of circumstances occurring after the signing of the contract (such as failure to comply with legal requirements), or can only do so with considerable expenses, or the financial situation of the Supplier deteriorates after conclusion of the contract to such an extent that delivery in accordance with the contract can no longer be expected. In this case, HK will pay the Supplier for the part of the service that has been provided, to the extent that it is useable for HK.
- 2.) In the event that the Supplier has falsely classified a US part (see Article XI No. 5), HK is also entitled to withdraw from the contract and claim compensation for damages.
- 3.) In the event that the Supplier is not established in the European Union, and during the ordering process informs HK that the goods and their packaging contain materials in the current candidate list of the REACH regulation in a quantity over 0.1% weight by weight or contain a substance according to Annex XIV of the REACH regulation (SVHC materials), HK is entitled to withdraw from the contract (see also Article XVI No. 4).

#### **XV) Export Law Regulations, Information and Labelling Obligations of the Supplier**

- 1.) The General Agreement on Tariffs and Trade (GATT) requires importers and exporters to determine and declare the country of origin of goods in accordance with commercial law. This declaration is necessary both for intra-Community transfers for tax declaration as well as for import and export procedures to indicate the country of origin on the customs declaration. Depending on the item concerned, the following must be specified:
  - Statistical goods number of the delivery country (code of the Harmonised System / HS of the World Customs Organisation / WCO);
  - Country of origin according to commercial law (in accordance with the GATT);
  - Country of origin according to free trade agreement, if applicable.

If necessary, the Supplier will provide HK with free additional evidence (Supplier's declaration).

- 2.) The Supplier's deliveries and services to HK may be the subject of national and international export control regulations, in particular, in the EU and the USA. The Supplier confirms that they shall observe all relevant export regulations with regard to the use, disclosure, export or re-export regarding their deliveries and services.
- 3.) The Supplier is responsible for the proper export of all delivery items from the country of dispatch and is obliged to obtain all necessary approvals in accordance with national and international export control regulations in good time. The Supplier is obliged to state in their quotation, the order confirmation and delivery documents whether or not the object of delivery requires an export license according to the German foreign trade law or the applicable provisions of European law.
- 4.) If the Supplier delivers items which are military weapons as defined by the Military Weapons Control Act (Kriegswaffenkontrollgesetz), then the Supplier shall have the transport conducted by a transporter who is approved by the Federal Ministry for Economic Affairs and Energy, unless the Supplier itself is approved accordingly for the specific transport.

If the goods establish their commercial origin in the USA or are subject to US export control regulations:

- 5.) The Supplier must inform HK in writing when submitting a quotation of a classification or, if necessary, in the case of subsequent amendment of the classification of delivery items according to the U.S. Export Administration Regulations (EAR) or U.S. ITAR (International Traffic in Arms Regulation) by specifying the ECCN number (Export



Control Classification Number) or USML Classification Number (United States Munitions List). The Supplier must disclose whether the object of delivery consists in whole or in part of US parts or was manufactured with a U.S. license. For ITAR, the Supplier must also state whether the contract subject matter/scope of the quotation is considered "Significant Military Equipment" (Sec. 120.7 ITAR) or "Major Defence Equipment" (Sec. 120.8 ITAR).

- 6.) The Supplier and HK shall jointly determine the scope of the licence requested. In addition, the Supplier shall explain to HK in writing obligations to be observed according to EAR or ITAR and if necessary, clarify existing restrictions on the (further) sale of the delivery item. The Supplier is aware that in the event of a deviation between the licence and the details of the end user ("end use"), they are responsible for the damages incurred by the delay.
- 7.) ITAR goods or EAR goods must be clearly identified as such by the Supplier. In the event that the Supplier transfers technology, they have to identify it with the registration number of the Technical Assistance Agreement and a reference to prior licence when it is passed on to third parties.

#### **XVI) Confidentiality, Supplier audit**

- 1.) If and as long as the parties have not concluded a separate written confidentiality agreement, the following confidentiality provisions shall apply to the business relationship.
- 2.) The Supplier is obliged to treat all information and documents (with the exception of publicly available information) provided as part of the business relationship with HK confidential for a period of 5 years after conclusion of the contract and to only use such information and documents for the execution of HK's order. Once enquiries have been answered and orders have been processed, the Supplier shall, if requested, immediately return the information and documents to HK, or demonstrably destroy them. The confidentiality obligation also applies to the fact that a business relationship between the parties exists.
- 3.) The Supplier shall also impose obligations upon the persons entrusted with the performance of the contract as well as their sub-contractors in accordance with this confidentiality provision.
- 4.) HK is entitled to have a quality audit conducted at any time at the Supplier's production facilities in which the goods earmarked for HK are manufactured. The quality audit shall assess the effectiveness of the quality assurance measures and will be carried out by authorised representatives. In the case of orders which are subject to a goods inspection by the goods inspection authority of the Federal German Armed Forces (Bundeswehr), the Supplier shall grant the inspector access to the production facilities and allow him to view the manufacturing and testing documentation including production monitoring. The costs incurred by this shall be borne by the Supplier. Should sub-contractors be commissioned for the fulfilment of the contract, the Supplier must ensure that the content in this section is also agreed with the subcontractor.
- 5.) The Supplier also agrees to regular supplier audits conducted by experts appointed by HK. The subject matter of the supplier audits encompasses everything relevant to the supply relationship.

#### **XVII) Rights of use, property rights**

- 1.) The Supplier shall grant HK the non-exclusive, transferrable right without restriction to time and place to use the deliveries and/or services of the Supplier (or parts thereof) for itself and/or to integrate them in its own products and sell them worldwide. In particular, HK is entitled to reproduce, transmit, publish, modify or otherwise process these without further consent. The Supplier undertakes not to assert any property rights of its own against the use of the deliveries and/or services.
- 2.) If, as part of the purchase order, any industrial property rights arise for the services provided by the Supplier or other work results, these are transferred to HK upon their coming into existence, free of charge and without further conditions. The Supplier shall ensure this acquisition of rights by laying claim to inventions in good time.
- 3.) The Supplier shall ensure that HK and customers of HK do not violate any intellectual property rights of third parties though the procurement, possession, offering, use, processing or further sale of the deliveries and/or services, in particular that they do not violate any rights to trademarks, brand names, patents, utility models, registered designs, features, designs or copyrights of third parties, including the corresponding patent applications (collectively referred to as "property rights" in the following) in the Supplier's country of origin, in the Federal Republic of Germany, as well as in the European Union; the same applies to a country to which the delivery is ultimately to be transported to, if the Supplier was notified of said country before the contract was concluded, and to countries in which the Supplier manufactures products or has products manufactured.



- 4.) The Supplier is obliged to indemnify HK and customers of HK from all claims made by third parties against HK and/or customers of HK due to the actual violation of property rights and to reimburse all necessary expenditures as part of this claim, in particular legal prosecution and defence expenses and costs which result from having to observe a cease and desist order. Further legal claims of HK and customers of HK due to defects of title remain unaffected. With regard to defects of title, a limitation period of 10 years as of conclusion of the relevant contract shall apply.
- 5.) The Supplier and HK are obliged to inform one another without delay of any risks of violating a property right and supposed cases of infringement which they become aware of, and to jointly take all reasonable efforts to counteract any such infringement claims.

#### **XVIII) Software**

- 1.) Software is to be delivered to HK on conventional data media in machine-readable code and shall include user documentation. The Supplier shall acquire and/or grant HK the non-exclusive, transferrable right without restriction to time and place to use and to copy the delivered software for its own purposes and for integration into other products, and to transfer or license the usage rights under this section to affiliated companies (as defined by Section 15 Stock Corporation Act – AktG) and grant other usage rights to said companies.
- 2.) For software developed individually for HK, the source code with manufacturer documentation is to be transferred to HK. The Supplier shall acquire and grant to HK an irrevocable, exclusive usage right without restriction to time and place to software developed for HK and the associated documentation and parts thereof, and to all other performance results, covering every known manner of use, including the right to alter, duplicate, change, expand and authorise the basic use by third parties.
- 3.) If any rights of third parties to third-party programs or other third-party performance results which went into the deliveries and/or services irremediably stand in the way of acquiring a usage right from HK, the Supplier and HK shall reach an appropriate contractual agreement on the extent of HK's usage rights.
- 4.) The Supplier is not allowed to duplicate, edit or otherwise use the performance results achieved for HK, either in whole or in part. The Supplier is not entitled to publish any performance results achieved for HK, not even in part.
- 5.) Should it prove legally impossible to acquire and grant one of the usage rights named in this article, the Supplier shall inform HK of this in written form before the contract is concluded. In doing so, the Supplier shall also describe the reason why it was legally impossible to acquire and grant the right.
- 6.) The Supplier shall ensure that no part of the software delivered to HK contains, at the time of delivery, malware which is intended to or capable of
  - (i) enabling the Supplier or third party to access HK's computer systems without authorisation from HK,
  - (ii) reading, writing, damaging or deleting software or data on HK's computer systems without HK's consent, or
  - (iii) triggering other processes not authorised by HK on or in computer systems of HK.

#### **XIX) Environmental legislation, REACH compliance and information obligations/RoHS**

- 1.) With regard to the goods and packaging delivered to HK, the Supplier agrees to comply with all applicable environmental legislation, in particular the REACH regulation (Council Regulation (EC) No 1907/2006, taking into account the current amending regulations in the current version) together with the reference standards and annexes referred to therein. In particular, the Supplier assures that the delivered goods and the packaging contain no materials in the current candidate list of the REACH regulation in a quantity over 0.1% weight by weight and contain no substances named in Annex XIV of the REACH regulation (SVHC materials). The Supplier is obliged to (pre-)register all substances supplied to HK itself or through previous suppliers, if registration obligations under REACH affect the Supplier and if HK has been made aware of the registration number.
- 2.) If the Supplier is not subject to registration under the REACH regulation, the Supplier shall oblige its previous suppliers to comply with their obligations under REACH. Registration made by the Supplier or its previous suppliers concerning the delivered goods is to be proven to HK in writing, if requested.
- 3.) The Supplier will ensure that, if goods or the packaging delivered by them contain substances falling under REACH, these are registered according to the REACH regulation; the Supplier will comprehensively comply with its information obligations toward HK. The Supplier shall be obliged to transfer to HK all information and documentation necessary under the REACH regulation (in particular in accordance with Art. 31 et seq. of the REACH Regulation) within the time limits provided for in REACH, or to immediately transfer information from previous suppliers to HK.

- 4.) If claims are made against HK by customers, competitors, or authorities due to violation of the REACH regulation, and the claims can be traced back to goods delivered by the Supplier, then HK shall be entitled to request from the Supplier exemption from these claims or the replacement of the damage caused by the inability to comply with the REACH regulation. The aforementioned obligations shall apply accordingly (with the exception of the registration obligations) if the Supplier is headquartered in a non-EU country.
- 5.) During the order, the Supplier must inform HK if the delivered goods and the packaging contain materials in the current candidate list of the REACH regulation in a quantity over 0.1% weight by weight or contain a substance in accordance with Annex XIV of the REACH regulation (SVHC materials), and said substance can be released during normal and foreseeable use. Especially in the case of SVHC substances, proof of ECHA approval is to be sent to HK. In such cases, HK shall be free to withdraw from the purchase order/contract without costs.
- 6.) Electrical and electronic devices of any category of device, as well as components for these must comply with the substance bans in the EU Directive 2011/65/EC and the implementing laws, regulations, decisions and other provisions. The Supplier must hand over a written declaration of conformity. These devices must have a CE mark and the symbol referred to in Annex IV of the EU Directive 2002/96/EC (WEEE).
- 7.) The Supplier warrants that all products meet the requirements of the RoHS Directive 2011/65/EU, in accordance with the above Paragraphs 1 and 2. The Supplier must pay all damages and expenses (including costs of legal proceedings and losses through the assertion of claims by third parties) based on a violation of the RoHS directive for which the Supplier is responsible or which are based on other applicable environmental legislation.

#### **XX) Minimum wage**

- 1.) The Supplier shall ensure that all workers it employs are paid in accordance with the requirements of the Minimum Wage Act (MiLoG). If the Supplier also renders works and services and makes use of subcontractors to do so, it shall take care to ensure that the workers employed by said subcontractors are also paid in accordance with the requirements of the MiLoG as well as other statutory regulations and collective wage agreements for which HK could be liable for ensuring compliance with pursuant to Section 13 MiLoG and/or Section 14 Posted Workers Act (Arbeitnehmerentsendegesetz).
- 2.) In this connection, the Supplier shall indemnify HK of all claims pursuant to Section 13 MiLoG and/or Section 14 Posted Workers Act due to a violation of the MiLoG on the part of
  - (a) the Supplier and/or
  - (b) a subcontractor used by the Supplier to render the contractual service or on the basis of a violation of statutory regulations or collective wage agreements which relate to this contractual relationship and are asserted against HK.
- 3.) The Supplier furthermore undertakes to provide HK with information at any time upon request as to whether the obligations under the MiLoG are actually being complied with and shall provide HK with the documents necessary to verify this.

#### **XXI) Supply Chain Due Diligence Act (“Lieferkettensorgfaltspflichtengesetz“)**

- 1.) If the Parties have agreed on the HK Supplier Code of Conduct in a legally binding manner, it takes precedence over the following regulations in paragraphs 2 - 7.
- 2.) The Supplier fulfills the human rights and environmental due diligence obligations of the German “Law on Corporate Due Diligence to Avoid Human Rights Violations in Supply Chains” (LkSG), taking into account the definitions of “human rights risk” listed in Section 2 Paragraphs 2 and 3 of the LkSG and “environmental risk” (human rights and environmental standards).
- 3.) The Supplier ensures that its employees receive training and further education on human rights and environmental standards upon request. For Suppliers that HK considers to be high-risk suppliers, HK reserves the right to carry out the training itself.
- 4.) Upon request, the Supplier will provide HK with information that is suitable for verifying the Supplier's compliance with human rights and environmental obligations.
- 5.) If there are actual violations of human rights and environmental standards in its own business area, the Supplier will take appropriate remedial measures to prevent, stop or minimize the violations. If the Supplier is unable to remedy

the violation of human rights and environmental standards in its own business area in the foreseeable future, HK can demand that the Supplier actively participate in the joint development and implementation of an action plan to remedy the violation. HK may temporarily suspend this Agreement during the implementation of the action plan to address the violation of human rights and environmental standards.

- 6.) If the Supplier violates essential human rights and environmental standards and this violation is classified as very serious or if the Supplier does not remedy violations of human rights and environmental standards within a deadline set by HK or in the action plan, HK may terminate the Agreement or terminate the business relationship as a last resort if HK has no other, less serious means at its disposal and increasing the ability to influence the Supplier has no prospect of success.
- 7.) The Supplier passes on the human rights and environmental standards, in particular the obligations mentioned in paragraphs 2. – 6. of this section, in the contracts, orders or comparable agreements with its upstream and downstream suppliers. The Supplier obliges its upstream and downstream suppliers to also pass on the human rights and environmental obligations, in particular the regulations mentioned in paragraphs 2. – 6. of this section, in the contracts, orders or comparable agreements with their own respective upstream and downstream suppliers.

## **XXII) Place of performance, applicable law and jurisdiction, partial invalidity, amendments**

- 1.) The place of performance for delivery and payment is HK's headquarters (Oberndorf am Neckar, Germany), unless agreed upon otherwise.
- 2.) The exclusive application of the law of the Federal Republic of Germany to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG) and the standards of conflicts of law is agreed upon for all claims resulting from the contractual relationship between HK and the Supplier. This also applies to claims from the culpable violation of duties from the precontractual obligations as well as claims from tort law.
- 3.) The exclusive legal venue for all disputes over rights and obligations from the business relationship between the Supplier and HK is, to the extent legally permissible, HK's headquarters in Oberndorf am Neckar. However, HK is also entitled to take action at the domicile of the Supplier.
- 4.) Should individual clauses of these conditions be invalid or void, it will not affect the validity of the remaining clauses or parts thereof. In this case, the legally ineffective, invalid and/or void provision is to be replaced by one which is valid and legally effective and corresponds in economic effect to the provision being replaced, to the extent possible and legally permissible.
- 5.) Addenda and amendments to the agreements made, including these Conditions of Purchase, must be made in written form to be effective, unless arranged otherwise in the provisions above. Transmission via telecommunication is sufficient to meet the written form, in particular via fax or E-mail, as long as the copy of the signed declaration is sent.

## **XXIII) Data protection**

- 1.) In case personal data are transmitted during exchange of information, the parties declare that the collection, processing, saving and transfer of the data is exclusively permitted for the parties' individual persons involved. In particular, the transfer or involvement of third parties within the relevant organisations on the territory of the Federal Republic of Germany or in a Member State of the European Union is considered to be unobjectionable. Transfer to a third party, regardless of whether outside or inside the organisation, whose workplace is in a non-member state (in particular the USA) requires the prior consent of the affected party and can only be done if the prerequisites pursuant to Art. 9g and 49 GDPR are met and the essence of data protection law is ensured, and in particular if appropriate and specific measures are in place to uphold the basic rights and interests of the person who is the data subject.
- 2.) Personal data mean information relating to a physical person. This covers all information of the person who is the data subject without exception. This includes identification elements such as name, date of birth, E-mail address or telephone number. However, this also includes factual information such as communication and contractual relationships and all other relationships of the data subject. Personal data will only be collected, processed, saved and transferred if this is permitted by law or if the natural person has granted express consent to the data collection. Consent must be granted on the basis of the classification and naming of the data to be transmitted. Blanket consent is not permitted. For the purposes of substantiating, fulfilling and ending the contractual relationship as well as for communication (e.g. via E-mail), personal data of the other party and/or relevant contact person will be saved for the purpose of processing the enquiry and in case of any follow-up queries. The legal basis for the data processing is Art. 6 GDPR, in particular Art. 6 Para. 1 b) GDPR.

- 3.) The parties undertake to maintain data confidentiality as per Section 53 Federal Data Protection Act (BDSG) both during and after the contractual relationship. Furthermore, the parties shall ensure that any persons who record as well as collect personal data in the scope of the business relationship undertake to maintain data confidentiality during their work. The party whose personal data is processed is permitted to verify compliance with the Data Protection Act as well as the protection measures taken. Should the parties gain knowledge of any violations of the provisions on the protection of personal data, the parties shall report this to the data subject without delay and undertake to comply with the information obligations pursuant to Art. 13, 14 GDPR.
- 4.) Each party has the right to obtain information on the personal data which are saved about it free of charge upon request. In addition, each party has the right to correct inaccurate data and to block and delete its personal data, as long as there is no statutory retention duty which opposes doing so.

HK's data protection officer can be reached at:

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Oberndorf, dated 19<sup>th</sup> April 2024