

# General Terms and Conditions of Purchase

## ek robotics GmbH

Status: October 2021

### 1 General – scope

- 1.1 The following General Terms and Conditions of Purchase apply exclusively for our orders and contracts for supplier deliveries and services. We shall not recognise any contradictory or deviating terms and conditions of purchase belonging to the supplier, unless we have explicitly consented to their applicability in writing. Our General Terms and Conditions of Purchase shall also apply where we accept the services of the supplier without reservation in the knowledge of contradictory or deviating supplier conditions.
- 1.2 The General Terms and Conditions of Purchase apply to legal relationships with companies, i.e. natural and legal persons or legally qualified partnerships which are carrying out a commercial or independent professional activity.
- 1.3 The General Terms and Conditions of Purchase shall apply in addition and secondarily to the individual contractual regulations agreed with the supplier.
- 1.4 Where the General Terms and Conditions of Purchase are included into a contract between us and the supplier, these terms and conditions shall also apply for all future similar contracts entered into with us.

### 2 Offer – offer documents

- 2.1 Offers to us must be made in writing at no charge under Section 126 and 126a *BGB* [German Civil Code].
- 2.2 The supplier shall be obligated to accept our order within two weeks.
- 2.3 Contracts entered into with us must generally be made in writing. Where, in exceptional cases, a contract is made orally, the oral contract must be immediately confirmed by both parties in writing.

- 2.4 We shall reserve title and copyright over all figures, drawings, calculations and other documents. These documents may not be disclosed to third parties without our explicit written consent. Such documentation must be used exclusively for production on the basis of our order and must be returned to us without our request upon completion of the order. These documents must be treated as confidential with regard to third parties where the provisions of Section XVI also apply.

### **3 Price – payment conditions**

- 3.1 The prices stated in the order are binding.
- 3.2 Unless otherwise agreed, all transport, shipping, packaging and insurance costs shall be included in the stated prices. A separate agreement is required for the return of packaging.
- 3.3 Unless otherwise agreed, all prices stated shall be net prices excluding VAT, sales tax, or similar taxes (“VAT or similar taxes”). Any statutory VAT or similar taxes may be calculated in addition to the net prices unless we owe VAT or similar taxes by law and the reverse-charge procedure or similar process applies.
- 3.4 Invoices can only be processed where, as stipulated in our order, these state the designated order number. The supplier shall be responsible for any and all consequences arising from the failure to comply with this obligation unless it can prove that it is not responsible for such.
- 3.5 Unless otherwise agreed, we shall pay the purchase price within 14 days, starting from delivery and receipt of the invoice, with 2% discount or otherwise within 30 days of receipt of the invoice.
- 3.6 We reserve the rights of retention or rights to set-off permitted by law.

### **4 Delivery time**

- 4.1 The delivery time stated in the order is binding.
- 4.2 The supplier shall be obligated to notify us immediately where circumstances occur or become apparent to the supplier which mean the agreed upon delivery time cannot be met.
- 4.3 We shall be entitled to statutory claims in the event of delayed delivery. In particular, we shall, upon expiration of an appropriate extension period without delivery, be entitled to claim compensation in lieu of performance of the delivery. Where we request compensation, the supplier shall reserve the right to prove to us that it is not responsible for the breach of obligation.

4.4 Any and all further rights and claims shall remain reserved.

## **5 Deliveries**

5.1 Deliveries including the appropriate packaging and insurance shall be made at the cost of the supplier. Environmentally friendly packaging material must always be used where possible. We shall not be responsible for transport insurance costs. Shipping conditions with agreements to the contrary must be confirmed in writing.

5.2 Where the supplier is obligated to take back the used packaging in accordance with the applicable packaging laws, it shall be responsible for the costs of the return transport and recovery.

5.3 The supplier must state our item, order and PO number on all documents pertaining to an order. All shipping papers must include all information required by us in accordance with the applicable regulations. Partial deliveries shall require our consent and must be indicated as such in the shipping documents.

## **6 Changes to the delivery item**

In the event we request a change be made to the delivery item, the supplier must notify us of and provide evidence of any potential additional costs or reduced prices and the impact on scheduled deadlines in writing.

## **7 Delivery obligation for spare parts**

The supplier is obligated to deliver any delivery items that are part of our products as spare parts at the appropriate market price for at least five years after production of the affected products is discontinued.

## **8 Force majeure**

In the event of any interruptions to production due to unavoidable events (force majeure, e.g. industrial action), we shall be authorised to withdraw from any orders. Otherwise, in the event of any obstacles that delay acceptance for which the supplier is not at fault, the delivery time and payment date shall be extended by the duration of the delay.

## **9 Transfer of risk – documents**

- 9.1 Delivery must be made with carriage paid unless otherwise agreed in writing.
- 9.2 The supplier shall bear all risks of accidental loss or damage for the delivery item from the point at which it is handed over for shipping/transport and without prejudice to the obligations to be performed by us, e.g. assembly.
- 9.3 The supplier shall be obligated to state our order number correctly on all shipping documents and delivery notes. Failure to do so by the supplier shall release us from responsibility for any resulting delays in processing the order.

## **10 Inspection of defects – defect liability**

- 10.1 We shall be obligated to inspect the goods for any potential deviations in quality or quantity within an appropriate period of time. Complaints shall be deemed valid where they are made to the supplier within seven working days from the receipt of goods or, in the event of hidden defects, within seven days of discovering the defect.
- 10.2 We shall be entitled to make statutory defect claims in full and in any case we shall, at our own discretion, be entitled to request repair of the defect or delivery of a new item. We reserve the right to compensation for damages, in particular the right to compensation in lieu of performance.
- 10.3 We shall be entitled to carry out repairs of any defects ourselves at the cost of the supplier where the supplier is delayed in this supplementary performance.
- 10.4 The period of limitation is 36 months from the transfer of risk insofar as the compulsory provision of Section 445b, 478 (2) *BGB* does not apply.
- 10.5 The other compulsory provisions of the delivery recourse remain unaffected.

## **11 Quality assurance, product safety**

- 11.1 The supplier must notify us in good time before delivery prior to relocating production sites or making any changes to production processes, materials or supplier parts for the delivery items, or changes to processes or equipment for inspecting the delivery items, or any other measures that may affect the quality and/or safety of the delivery items. Changes to agreed upon specifications may not be made without our consent.
- 11.2 All changes to the delivery items and product-related changes in the process chain must be documented in a product data sheet. This includes, but is not limited to, changes to drawings, concessions, process changes, changes to testing methods and testing frequency, changes to suppliers, supplier parts and fuels. Documents pertaining to the product life cycle must be made available upon request.

## 12 Product liability – indemnification – liability insurance

- 12.1 If and to the extent that the supplier is responsible for loss or damage caused by the product, the supplier shall be obligated to indemnify us on first demand against damage claims of third parties as far as the cause is within the supplier's sphere of control and organisation and the supplier is liable to third parties.
- 12.2 Within the scope of its liability for events of damage or loss under paragraph 1, the supplier shall also be obligated to provide compensation for any expenses in accordance with Section 683, 670 *BGB* or Section 830, 840, 426 *BGB* that arise as a result of or in relation to a legally justifiable recall performed by us. Where possible and reasonable, we shall inform the supplier about the content and extent of such recall measures in advance and provide it with the opportunity to respond.
- 12.3 Notification of the relevant authorities required under the provisions of *ProdSG* [Product Safety Act] shall be performed in coordination with the supplier.
- 12.4 The supplier shall be obligated to take out a product liability insurance policy with lump-sum coverage of €5,000,000 per personal injury/property damage and maintain this policy for the duration of the contract, i.e. until expiration of the period of limitation. We reserve the right to make further claims for damages and this right remains unaffected.

## 13 Property rights

- 13.1 The supplier guarantees that no third-party rights within the Federal Republic of Germany are violated through or in relation to its delivery.
- 13.2 In the event claims are asserted against us by a third party due to such infringement, the supplier shall be obligated to indemnify us on first written demand against these claims.
- 13.3 In the event of third-party claims for damages, the supplier shall reserve the right to prove that it is not at fault for such infringement of third-party rights. We shall not be entitled to make any agreements, in particular settlements, with the third party without the consent of the supplier.
- 13.4 The supplier's indemnification obligation shall apply to all expenses that necessarily arise as a result of or in relation to any third-party claims insofar as the supplier is unable to prove that it is not responsible for the breach of contract on which the infringement of property rights is based.
- 13.5 The period of limitation for such claims is three years starting from the transfer of risk.

## 14 Retention of title – provisions – tools

- 14.1 Where we provide parts to the supplier, we shall reserve title of such parts. Processing or restructuring shall be performed by the supplier on our behalf. If and to the extent that goods subject to this retention of title are processed with other items not belonging to us, we shall acquire co-ownership of the new item at a ratio corresponding to the ratio of the value of our item (purchase price plus VAT) to the other items processed alongside at the time of processing.
- 14.2 If and to the extent that items provided by us are processed with other items not belonging to us, we shall acquire co-ownership of the new item at a ratio corresponding to the ratio of the value of our item subject to the retention of title (purchase price plus VAT) to the other mixed items at the time of processing. Where a mixture is made in such a way that the supplier's item is considered to be the main item, it is hereby agreed that the supplier shall transfer co-ownership to us proportionally in the amount corresponding to the value of the provided item. The supplier shall hold the sole or joint property on our behalf.
- 14.3 We reserve ownership of any and all tools. The supplier shall be obligated to use the tools exclusively for manufacturing the goods ordered by us. The supplier shall also be obligated to insure the tools belonging to us at their original value against fire damage, water damage and theft. Furthermore, the supplier hereby assigns all compensation claims arising from this insurance policy to us and we hereby accept this assignment. The supplier shall be obligated to perform all necessary maintenance and inspection work, including any servicing and repair works, on our tools at its own cost. The supplier must notify us of any incidents immediately. Where the supplier culpably fails to do so, claims for compensation shall remain unaffected.
- 14.4 Where the security rights under paragraph 1 and/or paragraph 2 exceed the purchase price of all of our unpaid goods subject to the retention of title by more than 10%, we shall be obligated to release the security rights at our own discretion upon the request of the supplier.

## 15 Assignment

- 15.1 The assignment of a claim, whatever the content of such claim, generally requires our written consent. Assignments made without the required consent shall be invalid. We shall only refuse consent where, upon examination of the individual case, our interests in maintaining the claim relationship outweighs the interests of the contractual partner in assigning such claims as intended.
- 15.2 Where, in the event consent is refused in accordance with paragraph 1, assignment of a claim for money is still valid under Section 354a *HGB* [German Commercial Code], the assignor must compensate us for all potential additional costs arising in relation to the assignment.

## 16 Confidentiality, return of data

- 16.1 “Confidential Information” includes all information and data that is made available to the supplier by us, regardless of whether such information/data is explicitly marked as “confidential”. This includes in particular all financial, technical, business, legal and tax-related information, as well as any information pertaining to business activities, employees or management. Whether the information is contained on a carrier medium or which medium it is contained on is irrelevant. Information disclosed orally may also be deemed confidential.
- 16.2 The supplier shall be obligated to keep confidential all Confidential Information and protect it from authorised access. The supplier must only use this information for the purposes of collaboration with us and refrain from disclosing such information to third parties without our prior written consent. This obligation shall not apply for information that
- was already public knowledge at the time of receipt;
  - was already known by the supplier at the time of receipt or which was developed or discovered by the supplier itself independently from the contract, or which was made available by a third party without breaching the confidentiality obligations without limitation;
  - was made public knowledge without a breach of the confidentiality agreement;
  - was published with our explicit written consent; or
  - was disclosed by the supplier by way of legal obligation.
- 16.3 The supplier shall be obligated to treat all Confidential Information as confidential for an indefinite period.
- 16.4 The confidentiality obligation shall apply to all supplier employees. The supplier shall only disclose Confidential Information to those employees that require such information for the purposes of fulfilling the contract (“need-to-know principle”). The supplier shall be obligated to refer the aforementioned persons to the confidentiality obligation and enforce the same confidentiality obligations that it itself is subject to.
- 16.5 Upon completion of collaboration, all information and data received, including any copies, must be deleted or returned to us unless this information/data is subject to statutory retention obligations. The possibility of reconstructing the information and data must be excluded. The supplier must confirm in writing that all information/data has been returned in full or irreversibly deleted upon our request.

## **17 Partial ineffectiveness**

Should individual provisions of these General Terms and Conditions of Purchase become completely or partially ineffective, the General Terms and Conditions of Purchase shall remain fully effective.

## **18 Choice of law, place of jurisdiction and place of fulfilment**

- 18.1 The law of the Federal Republic of Germany, excluding harmonised international law, particularly the UN Convention concerning contracts for the international sale of goods, apply to the legal relationship between us and the supplier. The conditions and effects of the retention of title in accordance with Section 15 are subject to the law at the respective storage location of the item, insofar as the choice of law in favour of German law is subsequently non-permissible or ineffective.
- 18.2 If the customer is a businessman in accordance with the Commercial Code, a legal entity under public law or a special fund under public law, the exclusive (also international) place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship is our registered office in Rosengarten. However, we are also entitled to bring legal action at the supplier's general place of jurisdiction.
- 18.3 Place of performance is the headquarters of the relevant supplier business that supplied or dispatched the delivery item for shipping.

## **19 Environmental statement**

As far as we are concerned, the main focus is on people and the environment. We therefore endeavour to produce our products in a resource-protecting manner and systematically record energy-saving potential in our production procedures and transport. We are working intensively on ecological alternatives for selecting sources of energy and raw materials, and on consistent approaches for avoiding waste and product recycling.

## **20 Criminal and anti-constitutional organizations**

The supplier declares that it does not have any business or other connections with terrorists, terrorist organizations or other criminal or unconstitutional organizations. In particular, the customer shall take appropriate measures to ensure the implementation of EC Regulations 2580/2001 and 881/2002 within the scope of his business operations.

## **21 Child labour/youth employment (ILO Conventions 138 and 182 and the UN Convention on the Rights of the Child)**

No persons who are younger than the minimum age required by law in the respective country may be employed. Our suppliers are obligated to take the necessary measures to prevent the recruitment of persons under the legal age. The minimum age for admission for employment must not be less than the age at which compulsory education ends and under no circumstances less than 15 years of age. National standards for the protection of children and juvenile employees must be observed. The ILO exceptions apply. Children must be protected from economic exploitation, carrying out dangerous work which may affect the child's education and endanger the health or physical, mental, intellectual, moral or social development of the child.

## **22 Remuneration of employees**

Our suppliers must ensure that the wages paid to employees are at least equal to the statutory/standard wage or the minimum wage that usually applies in the industry. Insofar as there are no statutory nor industry-standard minimum wages, the supplier must ensure that the paid wage is essentially sufficient to cover the basic requirements of the employees taking individual circumstances into account (such as ancillary employment, part-time employment only or the like).