

## 1. Applicability

1.1 "Semcon" in these General Terms and Conditions of Purchase of Semcon Germany ("GPC") shall mean the relevant contracting company of the Semcon group with legal seat in Germany, as party of an agreement with a Seller, and thus especially includes Semcon Holding GmbH & Co. KG and all its affiliated companies in Germany, Semcon Project Management GmbH, Semcon Product Information GmbH, Semcon Communication GmbH and Semcon Köln GmbH. "Seller" in these GPC shall mean each party contracting with Semcon as a customer in the individual case about goods, services and/or work performance. Semcon and the Seller are together referred to as the "Parties", and each individual as a "Party".

1.2 These GPC shall apply to all types of purchasing agreements concerning any kind of goods ("Goods"), services ("Services") and work performance ("Work Performance") provided to Semcon (in the following referred to as "Contracts"). The term "Supplies" shall include Goods, Services and Work Performance.

1.3 Semcon will not accept any contradicting or conflicting conditions of the Seller, unless Semcon has expressly and in Written Form approved their validity. These GPC shall also apply if Semcon, being aware of any contradicting or conflicting conditions of the Seller, has an order carried out by the Seller without any reservations. These GPC shall also govern any future Contract between Semcon and the Seller.

1.4 Any modification or amendment of these GPC must be agreed in Written Form to be valid. "Written Form" in these GPC shall mean written letter, email, fax letter or posting of data or other electronic transmission within a supplier platform or other electronic B2B application.

## 2. Conclusion of Contracts; Modifications

2.1 Orders made by Semcon are binding only, if made in Written Form.

2.2 Orders, which the Seller accepts verbally, shall also lead to a legally binding Contract.

2.3 Semcon may, at any time prior to acceptance of the Supplies, request modifications of Contracts for Services and/or Work Performance, in particular the construction, design or other specification of the relevant Supplies according to the Contract, as far as this is reasonably acceptable for the Seller under the aspects of technical feasibility and economic efficiency. Should the Seller be of the opinion that such modifications might lead to a different price than that already agreed on, or to an inability to meet deadlines already agreed on, then the Seller shall notify this to Semcon without undue delay.

## 3. Scope of Performance

3.1 Details of the scope of performance are described in the Contract and the documents mentioned in the Contract, and also these GPC. Any results produced by the Seller when providing the Supplies, such as ideas, drafts, models and samples, are part of the scope of supply included in the price agreed upon.

3.2 The Seller shall check any specifications, work descriptions, and other information made available to the Seller for the execution of a Contract, and any items, parts or other materials made available to the Seller for the execution of the Contract, to determine their suitability for the purpose intended by Semcon and its final customer. Should it become evident through this examination that it is necessary or advisable to make modifications or corrections, the Seller shall inform Semcon without undue delay in Written Form. Semcon will then inform the Seller in Written Form if and to which extent the Seller shall implement changes.

3.3 The Seller shall ensure that it has timely knowledge of any information and circumstances necessary for the fulfillment of its contractual obligations, and also of the use to which Semcon's customer intends to put the Supplies. Missing documents may be used as grounds of appeal by the Seller only if the Seller has made a timely request in Written Form for the said documents, and failed to receive them within a reasonable period.

3.4 The Seller shall ensure that he performs his contractual obligations with sufficient and adequate resources and with employees of appropriate qualification and experience. Should the Seller's employees to perform the contractual obligations be specified in the Contract, the Seller shall not be entitled to replace designated employees without Semcon's prior consent in Written Form. The Seller is obligated to replace, without unreasonable delay, any employees who Semcon considers do not have sufficient skills to perform the Seller's contractual obligations.

The Seller shall immediately notify Semcon as regards any change of employees, due to sickness, leave or any similar circumstance. The Seller shall propose appropriate measures for the avoidance of delay or disturbance for Semcon. The Seller shall be responsible for any additional cost or delay which arises due to a change of employees. To the extent that the Seller's employees perform work at Semcon's premises or the premises of Semcon's final customers, the Seller shall be obligated to ensure that such employees observe any provisions or regulations issued by Semcon or its final customer or any governmental authority.

3.5 The Seller will observe all relevant standards, laws and legal provisions under applicable law of authorities, employer's liability insurance associations and trade associations, in particular any relevant provisions appertaining to safety, environmental protection, hazardous substances and materials, and accident prevention, as well as the generally acknowledged safety-related rules and the requirements of Semcon and its final customer. To the extent which deviations from these provisions are necessary in individual cases, the Seller must obtain Semcon's prior approval in Written Form. The other obligations, including any guarantees for the quality of the Service or Work Performance, shall not be affected by this approval.

3.6 The Seller guarantees that, for a period of five years following delivery of Goods, it will be able to supply Semcon with additional Goods or parts thereof as spare parts. In the event that Semcon is obligated towards its final customer to provide spare parts for a longer time, this shall also apply to the Seller towards Semcon. Semcon shall inform the Seller of such obligations.

## 4. Subcontracting

Complete or partial subcontracting to third parties is only permitted with Semcon's prior consent in Written Form. Violations entitle Semcon to terminate the Contract without prior notice for good cause.

## 5. Prices; Payment; Setoff; Exclusion of Assignment Rights

5.1 The agreed prices are flat-rate fixed prices, unless it has been expressly and in Written Form agreed that prices will be charged in units based on number of items or hourly rates. The agreed price includes all expenses incurred by the Seller, e.g. cost of materials, packaging, use of equipment, travel expenses, transport, insurance, customs duties and taxes, unless expressly and in Written Form agreed otherwise.

5.2 Presentations, negotiations and the preparation of offers are not remunerated unless expressly and in Written Form agreed otherwise.

5.3 Each order requires a separate invoice. Invoices must include Semcon's purchase order number. Payments shall be made within 14 days with 3% discount or within 30 days net according to Semcon's choice upon receipt of a correct and auditable invoice and the Goods and/or a signed acceptance certificate, as the case may be.

5.4 The Seller is only entitled to set-off if and to the extent of which its counterclaims have finally been adjudicated, have not been contested or if Semcon has accepted such counterclaims in Written Form. In these cases the Seller is also entitled to exercise a right of retention, provided that its counterclaim results from the same contractual relationship.

5.5 Semcon shall be entitled to setoffs, reductions, performance refusal rights or rights of reservation at any time with regard to claims on the Seller. Unconditional payment shall neither be considered an acknowledgement on Semcon's part of delivery or performance as being according to Contract nor an acknowledgement of terms and conditions and prices.

5.6 Semcon shall be entitled to setoffs against claims of the Seller even when such debts are owed to a company affiliated with Semcon pursuant to Para.15 of the German Stock Corporation Act (AktG). Semcon is further entitled to offset claims of the Seller against his claims when such claims are owed to a company affiliated with Semcon pursuant to Para.15 of the German Stock Corporation Act (AktG).

5.7 The Seller is entitled to assign, pledge or otherwise transfer any claims arising from any legal business transaction with Semcon only upon Semcon's prior approval in Written Form. Even if the Seller assigns his receivable against Semcon contrary to the first sentence of this Clause 5.7 to a third party without the consent of Semcon, the assignment remains valid. Regardless of the assignment Semcon may choose whether payment is made to the Seller or the third party.

## 6. Deadlines; Delay; Obligation to Co-operate

6.1 Any delivery dates agreed upon are binding. The receipt of the Supplies at the address given in the Contract is the decisive factor for the delivery to be considered on time. Terms of delivery begin as of the date of the Contract. If the Seller has to supply samples, inspection records or any other contractually agreed documents, the delivery of Goods or provision of Service is considered complete only if such additional items have been received as well.

6.2 Should delays in delivery be expected, for any reason whatsoever, the Seller shall inform Semcon without delay, as soon as he becomes aware of this. In the event of a delay on the part of the Seller, Semcon is entitled to demand a contractual penalty amounting to 0.2 % of the Contract value for each calendar day of delay, however, in total not exceeding 10 % of the total Contract value. Any other rights of Semcon remain unaffected; the contractual penalty will, however, be offset against damage caused by the delay. The right to demand the contractual penalty will not be lost through the unconditional acceptance of the Supplies. Further rights shall not be affected by these rules.

6.3 In case of the Seller being delayed with delivery, Semcon is entitled to rescind the Contract or to claim damages in lieu of performance, after an adequate extension period for performance or supplementary performance has been set by Semcon in Written Form, and such extension period has elapsed without completion of performance. Such an extension period is dispensable if the Seller is in serious delay, or if a fixed-date purchase ("Fixgeschäft" according to Para. 323 sect. 2 no. 2 German Civil Code (BGB), Para. 376 German Commercial Code (HGB)) was agreed, or if special circumstances exist that justify an immediate rescission when taking into consideration the interests of both Parties.

## 7. Acceptance of Performance; Passing of Risk; Incoming Inspection

7.1 The Seller delivers the Supplies "Delivery Duty Paid (DDP according to Incoterms 2010)", unless the Parties have agreed otherwise expressly and in Written Form. The Seller shall not make partial deliveries, unless otherwise expressly and in Written Form agreed.

7.2 The Seller bears the risk of accidental loss and deterioration until the Supply has

passed over to Semcon at its place of business. If the Supply is delivered before the agreed delivery date, it is to be stored, at the cost and risk of the Seller, on Semcon's premises until this date. Semcon is not obligated to accept delivery prior to the delivery date indicated in the Contract.

7.3 Work Performance shall be accepted by a protocol of acceptance in Written Form signed by both Parties.

7.4 Should the Seller's Supply form an integral part of the overall performance required by Semcon towards its final customer, then without the necessity of an express statement, acceptance of the Seller's performance will not be deemed complete until Semcon's final customer has granted final approval of Semcon's overall performance.

7.5 Semcon performs the following checks at the incoming inspection:

- Identification check based on packaging units;
- Inspection for any visible external transport damage;
- Estimate of the supplied quantity.

Semcon will inform the Seller in writing about any alleged defects of the Supplies delivered found here without delay. After that Semcon shall notify the Seller in Written Form about any alleged defects of the Supplies delivered as soon as such alleged defects have been discovered in the course of an orderly business practice. Insofar the Seller hereby waives his right to reject delayed notification of deficiency.

## 8. Force Majeure

8.1 In case of Act of God, labour disputes, civil commotion, governmental or official actions and other non-foreseeable, inescapable and serious events the Parties shall be temporarily relieved from their obligations during the period of time such events continue and to the extent their liabilities are affected. The afore-stated shall also be applicable in case the Party concerned is already in default. The Parties are committed to give each other the necessary information which may reasonably be expected without delay, and to adjust their obligations in good faith to the changed circumstances.

8.2 In the event that such event of Force Majeure persists continuously for a period of more than one month, the respective other Party shall have the right to terminate the relevant Contract with immediate effect.

## 9. Defects

9.1 The Seller warrants that his Supplies are

- (i) in accordance with the contractually agreed specifications;
- (ii) free from design, manufacturing and material defects;
- (iii) in accordance with the technical state of the art valid at the time of delivery;
- (iv) in accordance with all at the time of delivery applicable law and legal provisions of authorities, employer's liability insurance associations and trade associations as well as any quality assurance requirements of Semcon and its final customer; and
- (v) suitable for the contractually agreed purpose or for the purpose evident to the Seller, as the case may be.

9.2 Should Supplies fail to comply with the above warranty, Semcon has the right, at its discretion, to request the Seller to rectify the defects at its own risk and expense, or to replace defective items with contractual items which are free of defects. Should the Seller fail to meet this obligation within a reasonable period of time, refuse to rectify defects, or provide replacements, or should exceptional circumstances call for immediate action, then Semcon is entitled, at the Seller's expense, to repair or replace defective Supplies itself, or have them repaired or replaced by third parties. The correction of defects or a new delivery will imply the restart of the statute of limitations for warranty claims; if improvements are made however, this shall only apply provided the extent of the improvement was not only completely unsubstantial.

9.3 In addition, the Seller shall reimburse Semcon for any costs incurred in connection with the rectification of defects or the replacement of defective Supplies.

9.4 The warranty claims of Semcon shall fall under a statute of limitations of 36 months valid from the date of delivery (Contracts for Goods and Services) or Semcon's acceptance (Contracts for Work Performance). Should the Supply form part of an overall performance to be provided by Semcon to its final customer, then the statute of limitations shall be 36 months from the date of acceptance by Semcon's final customer; however, not exceeding 48 months from delivery to/acceptance by Semcon, as the case may be.

9.5 Should any defect occur within the first 12 months following the start of the statute of limitations period, it will be assumed that the defect already existed at the date of transfer of risk or acceptance, unless evidence is furnished by the Seller of the defects being attributable to fault or negligence on Semcon's part.

9.6 Any further legal or contractual claims of Semcon remain unaffected.

## 10. Liability; Insurance

10.1 The Seller ensures that no third party rights are violated in connection with his Supplies. The Seller shall indemnify and hold harmless Semcon and its final customers against any and all claims arising out of infringements of any Intellectual Property Right of any third party caused by Background Knowledge, Intellectual Property Rights, know-how, material, Goods, Services or Work Performance provided by the Seller or its Subcontractors. This does not apply in cases where the

Seller is working according to drawings, models, data etc. provided by Semcon, and does not know, or, in connection with the Supplies it is providing, does not need to know that Intellectual Property Rights are being infringed as a result. In the event of infringement, Semcon is entitled, at the Seller's expense, to obtain from the owner of such Intellectual Property Rights the necessary authorisation to deliver, commission, use, resell, etc. the Supply.

10.2 The Seller shall indemnify and hold harmless Semcon from any third party claims arising from product liability, if and insofar as it is responsible for the damage which has occurred, and will reimburse Semcon for any expenses incurred by or in connection with any recall action or service measures undertaken by Semcon or its final customers. Semcon will – as far as possible and reasonable - inform the Seller of the contents and extent of any recall or service action, and give the Seller the opportunity to comment.

10.3 The Seller is liable to the same degree for any negligent conduct of its representatives, vicarious agents or sub-suppliers as it is for its own. Para. 831 clause 1 sentence 2 German Civil Code (BGB) shall be excluded.

10.4 The Seller undertakes, in particular with regard to personal injury, damage to property and financial loss, to take out and ensure insurance coverage that is adequate and customary in terms of both purpose and amount covered. If requested to do so, the Seller shall submit the appropriate confirmations of insurance to Semcon. The Seller hereby and in advance transfers to Semcon any title to any insurance benefits arising in connection with the Supplies, and Semcon hereby accepts this assignment. The fact of insurance having been taken out and title to insurance benefits assigned does not in any way limit the liability of the Seller.

10.5 Any further legal or contractual claims of Semcon remain unaffected.

## 11. Intellectual Property Rights

11.1 Semcon obtains an exclusive, unlimited, sub-licensable and irrevocable right of exploitation on the results of Services and Work Performance; this right being transferable and settled in full through payment of the contract price. Furthermore, the following conditions shall apply with regard to the industrial property rights included in the work results.

11.2 "Intellectual Property Rights" shall mean all registered or unregistered, intellectual property rights and similar rights, including trademarks, patents, utility models, designs, copyrights and software.

11.3 "Background Knowledge" shall include all Intellectual Property Rights and additionally all information, knowledge, data and know-how, regardless if independently developed by a Party outside the scope of the relevant Contract or acquired from third parties. Should the results contain "Background Knowledge" of the Seller, Semcon is to receive a transferable, sub-licensable, non-exclusive, irrevocable license for these Intellectual Property Rights, settled in full through payment of the contract price.

11.4 Semcon has the prior right of acquisition of any Intellectual Property Rights created by the Seller and/or its staff, alone or in cooperation with Semcon's staff, when working on the Contract ("Foreground Intellectual Property Rights"). The Seller is obligated to claim his property rights vis-à-vis his employees without restrictions and offer them to Semcon in Written Form within two months at the very latest after such rights have been brought to the Seller's knowledge. Possible compensation for employee's inventions and the transfer of rights will be deemed to have been settled with the agreed contract price. Semcon is entitled to transfer such Foreground Intellectual Property Rights to any company affiliated with Semcon pursuant to Para.15 of the German Stock Corporation Act (AktG). Should Semcon have no interest in acquiring exclusive Intellectual Property Rights in its own name, the Seller may acquire Intellectual Property Rights at its own discretion, in its own name and at its own expense, although Semcon is still entitled to an irrevocable, transferable, sub-licensable, unlimited, non-exclusive right to make use of these Intellectual Property Rights free of charge. Any charge for these will be deemed to have been settled with the agreed contract price.

11.5 Should the results of the Seller or its employees include a design suitable for registration as a design patent, the Seller will, at the time it is produced, transfer any title to rights over the design to Semcon. Semcon is entitled to effect official registration of the design at its own discretion. Any charge for these will be deemed to have been settled with the agreed contract price.

11.6 As far as any Services or Work Performance of the Seller are protected by copyright, the Seller herewith grants Semcon the exclusive, irrevocable, sub-licensable, transferable and unlimited right to use these work results free of charge. Any charge for this will be deemed to have been settled with the agreed contract price.

11.7 In the event of work being delegated to subcontractors, the Seller shall be responsible for ensuring that Semcon still has analogously similar rights according to this Clause 11.

## 12. Confidentiality

12.1 The Seller undertakes to treat as business secrets any commercial and technical details, which he has received from Semcon or which he has otherwise become aware of due to the business relationship with Semcon, and not to disclose, transfer or otherwise make available to any third parties. This does not apply to information which

- (i) is or becomes generally known, without any breach of this obligation;

- (ii) is made known to the Seller by a third party, without breach of any relevant obligation;
  - (iii) the Seller can prove either to have possessed before this obligation came into effect, or to have developed independently subsequent to its coming into effect;
  - (iv) Semcon has in Written Form given its express consent or
  - (v) is required to be disclosed by law, the rules of any governmental organization or a court order.
- 12.2 Semcon shall not unreasonably refuse consent according to Clause 12.1 (iv) if and to the extent it is necessary for the due execution of a project under a Contract. In such case, the Seller shall bind the receiving third parties by a confidentiality agreement reflecting the rules set forth in this Clause 12.
- 12.3 The copying or reproduction of any Information is admissible only within the framework of business requirements and copyright regulations.
- 12.4 The Seller undertakes to bind its employees, associates, partners and all others who receive the confidential information by similar non-disclosure obligations.
- 12.5 The Seller may use the established business relationship to Semcon for advertising purposes only after having obtained previous consent from Semcon in Written Form.
- 12.6 The Parties agree on a penalty of EUR 50,000.00 to be paid by the Seller for any culpable breach of the confidentiality obligations according to this Clause 12. Regardless of the penalty Semcon expressly reserves the right to assert a claim for higher damages suffered as a result of a breach of these confidentiality obligations. The penalty shall be deducted from the compensation for further damages.
- 13. Termination of Contract**
- 13.1 Ordinary Termination
- 13.1.1 Semcon may terminate the Contract, except for sales contracts, at any time at one week's notice.
- 13.1.2 In the event of ordinary termination, Semcon will pay the proportion of the agreed price that will cover all services that can be proven to have been provided by the Seller up to the date on which the termination comes into force. In addition Semcon will, in the event of ordinary termination, reimburse the Seller with any costs which can be proven to have been incurred by the latter with a view to and for the direct purpose of executing the terminated part of the order with due commercial care and attention, and which, within the bounds of possibility and reasonableness, could not be avoided.
- 13.1.3 In the event of ordinary termination, no further claims on the part of the Seller for any legal reason whatsoever will be deemed to exist. In any event, the maximum remuneration to be paid by Semcon as per Clause 13.1 will not exceed the contract price of the terminated scope of supply.
- 13.1.4 If, in the event of ordinary termination, a contract is arranged between Semcon or one of its affiliates and the Seller, and the Seller's capacities thus released could be used to this end, then the payments as per Clause 13.1.2 should be taken into consideration, as far as possible.
- 13.2 Termination for Good Cause
- 13.2.1 The Parties may terminate the Contract for good cause at any time without notice. This especially applies in case
- (i) the other Party has suspended its payments or its assets are subject to insolvency proceedings or insolvency proceedings are not opened due to lack of assets, or it has made an affirmation in lieu of an oath as to the correctness of its list of assets;
  - (ii) direct or indirect infringement of the provisions of Clause 12;
  - (iii) direct or indirect attacks against Intellectual Property Rights or Background Rights of the other Party;
  - (iv) any delay of the Seller, after an adequate extension period set by Semcon has elapsed.
- 13.2.2 In the event of termination for good cause for reasons caused by negligence or intention of the Seller, Semcon will reimburse the Seller only for zero-defect Supplies which can be proven to have been provided prior to the termination date, whereby the actual value of the Supplies provided will be in proportion to the value of the sum of all Supplies owed.
- 13.2.3 No further claims on the part of the Seller, for any legal reason whatsoever, will be deemed to exist. In any event, the maximum remuneration to be paid by Semcon as per Section 13.2 will not exceed the agreed contract price.
- 13.2.4 Semcon reserves the right to assert further claims in the event of termination for good cause by reasons attributable to the Seller.
- 13.3 Any notice of termination must be in Written Form.
- 14. General Provisions**
- 14.1 Should any provision of these GPC or of any Contract between Semcon and the Seller be or become invalid or unenforceable, all other provisions shall remain unaffected. Semcon and the Seller are obliged to replace each unenforceable or invalid provision by a new provision that to the greatest possible extent reflects the legal and economic purpose of the original provision.
- 14.2 Unless expressly otherwise agreed in Written Form, the laws of Germany under the exclusion of its conflicts of laws provisions shall apply to these GPC and each Contract between Semcon and the Seller. The Convention of the United Nations on Contracts for the International Sale of Goods of 11<sup>th</sup> April 1980 ("CISG") shall not apply.
- 14.3 Place of performance shall be Semcon's place of business, unless expressly otherwise agreed in Written Form.
- 14.4 The ordinary courts at Semcon's place of business shall have exclusive jurisdiction for all disputes and claims arising from or relating to any Contract and its implementation. However, at its choice, Semcon shall be entitled to file an action against the Seller at the ordinary court at the Seller's place of business.