TERMS AND CONDITIONS OF PURCHASE OF ICS ENERGIETECHNIK Gesellschaft mbH

as of 12-2021

1. Validity:

These terms and conditions of purchase apply to every order placed by ICS ENERGIETECHNIK Gesellschaft mbH (hereinafter referred to as ICS) and every contract concluded; By making an offer or accepting an offer made by ICS, the seller, supplier or contractor (hereinafter always referred to as supplier) accepts these conditions in full.

The terms and conditions of purchase of ICS apply exclusively; conditions of the supplier that conflict with or deviate from the terms and conditions of purchase of ICS are not recognized by ICS unless ICS has expressly agreed to their validity in writing. The terms and conditions of purchase of ICS also apply if ICS makes use of services in the knowledge of conflicting conditions of the supplier.

2. Gratuitousness of offers:

Offers as well as visits, advice, drawing up plans, etc. are always non-binding and free of charge for ICS, but are binding for the supplier.

3. Conclusion of contract:

A legal obligation of ICS only arises if this is confirmed in writing, verbal or telephone orders or assignments therefore require written confirmation by ICS.

By accepting the order or by concluding the contract, the supplier undertakes to deliver the delivery item in the agreed condition, quality and quantity. If the order relates to machines and equipment, these must be delivered ready for operation.

Unless otherwise agreed between the supplier and ICS, the documents listed below apply in the following order of priority:

a) Contract or order

b) Present terms and conditions of purchase of ICS ENERGIETECHNIK Gesellschaft mbH

c) Other contract or order supplements and/or annexes

4. Prices, invoices and payment

The prices are fixed prices and include all ancillary costs.

Invoices must be correct under commercial law and must be issued in accordance with the Value Added Tax Act (EU). They may not be enclosed with the goods but must be sent separately to ICS together with copies of the delivery note. The supplier is solely responsible for proper accounting.

Payment can also be made by offsetting claims that ICS is entitled to against the supplier. The right of the supplier to demand interest on arrears and to make claims for damages in the event of a justified default in payment by ICS is mutually excluded.

5. Delivery dates:

The delivery dates are mutually agreed. If a delivery (or agreed service, hereinafter also referred to as delivery) is not provided at the scheduled time, at the agreed place or in the agreed manner, ICS is entitled, at its own discretion, to withdraw from the contract without setting a deadline and to claim damages for non-performance or to insist on the fulfillment of the contract and to demand compensation for late fulfillment. In the event of withdrawal, the claim for damages includes all costs associated with the procurement of replacement deliveries.

As soon as the supplier realizes that it is completely or partially impossible to deliver on time, he must notify ICS in writing, stating the reasons and the expected duration of the delay. ICS is then entitled to declare at this point in time that it will withdraw from the order, which means that it is entitled to assert the agreed claims. The supplier is not entitled to any claims whatsoever against ICS as a result of this procedure.

6. Delivery and shipping:

The delivery takes place according to INCOTERMS at the agreed place of delivery, whereby the place of delivery can differ from the place of destination. The place of destination is the place where the delivery item is assembled and/or used.

Unless otherwise agreed, the delivery must be insured for transport, duty paid, professionally packed and loaded free to the place of delivery. The transport risk is always borne by the supplier. A notice of dispatch must be sent to ICS in good time before dispatch. In the case that the shipping documents are not issued in accordance with the order, ICS reserves the right to reimbursement of the resulting additional costs. Costs arising from non-compliance with the shipping instructions shall be borne in full by the supplier.

7. Acceptance:

The legally effective acceptance of the delivery only takes place after the entire delivery has been checked, even if its receipt has already been confirmed by ICS and/or the invoice has been paid. If the delivery does not correspond to the agreements, ICS has the right to withdraw from the order immediately and to procure a replacement at the expense of the supplier.

8. Assignment prohibition:

Claims to which the supplier is entitled against ICS may not be assigned to third parties.

9. Patent property rights:

The supplier guarantees that ICS does not infringe existing property rights and third-party rights by using the goods it has delivered. He expressly undertakes to indemnify ICS from third-party claims in this regard and to compensate ICS for any damage incurred in this regard.

10. Transfer of risk and ownership:

The risk of the delivered item (transfer of risk) only passes to ICS when the delivery item is delivered to the agreed place of delivery.

Ownership of the delivered item is transferred to ICS with the transfer of risk, regardless of the agreed payment periods. The supplier is not entitled to retain ownership of the delivered goods.

11. Warranty:

The warranty or guarantee is specified in the order

or in the contract. Deviating from this regulation, the warranty corresponds at least to the legal regulations. It is mutually agreed that ICS can assert warranty claims during the entire warranty period.

Regardless of the type of defect, ICS is free to demand repairs, rectification of the defect, price reduction or rescission. The supplier is bound by the choice of ICS, which is made through an out-of-court declaration.

Necessary repairs/corrections of defects are carried out by the supplier or his representative, for whom the supplier is responsible, directly at the destination of the delivery item or at another location which ICS must agree to. All associated costs will be borne by the supplier.

In urgent cases or if the supplier does not immediately fulfill his warranty or guarantee obligations, ICS is entitled to rectify defects, carry out repairs or, if necessary, replace the entire delivery item and eliminate any damage incurred at the supplier's expense.

In the event of rectification of defects, repair, replacement or improvement, the full warranty/guarantee period begins when the device is put into operation again.

By accepting or approving the submitted technical documents and drawings, ICS does not in any way waive the guarantee/warranty claims.

12. Confidentiality, technical documents:

The supplier is obliged to regard contracts/orders and the resulting information and documents as business secrets and to treat them confidentially.

The technical documents and drawings provided by ICS may only be used to complete ICS orders.

All technical documents, drawings and software produced according to ICS specifications may not be handed over or made available to third parties without the express consent of ICS.

Should ICS feel compelled, at its own discretion, to request the supplier to hand over the technical documents and drawings that are the property of ICS, the supplier shall acknowledge this request without objection. In this case, the supplier is obliged to destroy all remaining copies of the documents and permanently delete them from data carriers.

13. Safety regulations:

The delivered item must comply with the safety regulations (laws, regulations, standards, etc.) applicable in the EU and at the place of destination. The supplier is responsible for ensuring that all applicable protective regulations are observed.

14. Documentation:

The supplier is obliged to hand over to ICS all documentation required for use, maintenance and approvals and all operating instructions together with the delivery item at the latest.

15. Bankruptcy:

ICS can withdraw from the contract if bankruptcy or composition proceedings are filed against the supplier's assets or the supplier stops making payments or his company is voluntarily or compulsorily liquidated. ICS is also entitled to this right if the contract has been fully or partially fulfilled by one or both contracting parties.

16. Force Majeure:

The supplier and ICS may only be released from their obligations in the event of force majeure, labor disputes, unrest, pandemics and the consequences of a pandemic, official measures and other unforeseeable and unavoidable events. Such events that prevent the continuation of the order release ICS from its performance and payment obligations for the duration of the disruption and to the extent of its effect. In this case, it is agreed that the contract will be terminated or that individual contractual provisions, such as scope of delivery, payment terms and delivery times, will be adjusted to the changed circumstances by mutual agreement.

17. Place of performance, place of jurisdiction:

The place of performance for deliveries and services is either the place of delivery or destination specified by ICS or the registered office of ICS. The exclusive place of jurisdiction for all disputes is the factual and local court responsible for ICS. A foreign supplier also undertakes to agree to the enforcement of a judgment made by an Austrian court on recourse claims by ICS in its home country and not to oppose any application for enforcement in this regard. Both formally and substantively, Austrian law applies as agreed. The UN sales law is expressly excluded.

18. Written form:

Agreements that deviate from the present terms and conditions of purchase must be in writing. This also applies to all agreements and ancillary agreements.

Kumberg, December 2021