

General Terms and Conditions of Purchase for Commissioning Work and Other Services

(applicable as of January 1, 2014)

of EUROMICRON Werkzeuge GmbH (euromicron Group company) (hereinafter referred to as the “customer”):

1. Subject matter and definitions

1.1 These *General Terms and Conditions of Purchase for Commissioning of Work and Other Services* shall apply to all contracts (hereinafter referred to as “contract” or “order”) under which the customer awards work or other services (hereinafter referred to as “services”). Construction services, information technology services and development-related services, as well as the manufacture and supply of material for further processing by the customer, shall be exempted from the application scope of these General Terms and Conditions. Separate terms and conditions shall apply exclusively to such deliveries and services.

1.2 Services within the meaning of these Terms and Conditions shall be – within the framework of the restrictions defined in 1.1 – in particular:

- All types of service
- All types of construction service
- All types of cleaning work
- Transportation services
- Maintenance work
- Assembly work
- Repair work
- Surface processing
- Electrical engineering services

1.3 These Terms and Conditions shall apply only if the contractor is an entrepreneur within the meaning of Section 14 of the German Civil Code (BGB), a legal person under public law or a special fund under public law.

1.4 These Terms and Conditions shall also apply exclusively if the customer, for example, awards orders or accepts services without reservation in knowledge of the contractor's terms and conditions of trade. Conflicting, different or supplementary terms and conditions of trade of the contractor shall not be acknowledged.

2. Conclusion and content of contracts

2.1 The orders and other declarations of the customer aimed at concluding or modifying a contract shall only be binding if issued in writing. Correspondence shall be conducted with the respective contact persons in the customer's responsible department.

2.2 Legally relevant declarations and notifications of the contractor issued after conclusion of the contract shall not be valid unless given in writing.

2.3 The contractor can accept orders by the customer within the commitment period stated in them, otherwise within 6 business days (Mondays to Saturdays) as of the order date, by means of a written confirmation. The time at which this confirmation is received by the customer shall determine whether an order has been accepted on time.

2.4 Notification by fax or e-mail shall also be sufficient as written form.

2.5 The written contract, including these Terms and Conditions, which shall be part of the contract, represents all the agreements between the parties on the subject matter of the contract.

3. Fulfilment of the contract and performance of the services / engagement of third parties

3.1 The contractor warrants that it will perform its services in accordance with the state of the art.

3.2 The contractor shall provide all tools, machinery, equipment, scaffolding, lifting devices, accommodation or the like required to fulfil the order. If the customer lends it such objects in an individual case, the subcontractor shall be liable for damage to the objects which is not caused by normal wear and tear.

3.3 The contractor shall provide electricity lines and water pipes to the point of consumption in agreement with the customer, taking into account the applicable technical regulations and at its own expense, and remove them as soon as the work has been completed, unless otherwise agreed.

3.4 Before commencing the services, the contractor shall inspect the place where they are to be performed and examine its suitability for provision of the services and whether any details given by the customer are correct (as regards foundations, connections, stake-outs, etc.).

3.5 If the contractor realizes that the customer's service description – a concept, other tasks, stipulations or details – are objectively unfeasible, incorrect or unclear, it shall inform the customer immediately in writing giving the technical reasons why.

3.6 If the contractor releases harmful substances, finds harmful substances or suspects there are such substances in performing the services, it shall inform the customer immediately.

3.7 The contractor shall not be authorized to have services performed by third parties (e.g. subcontractors) without the prior written consent of the customer. If third parties are engaged, the contractor shall be obliged to obligate the third party to the extent to which it itself is obligated toward the customer.

4. Employees of the contractor

4.1 The customer shall have the right to issue instructions to the contractor. However, that does not entail a general right to issue instructions to employees of the contractor.

4.2 The contractor shall supervise the employees working for him to the necessary extent and ensure that the employees assigned by it obey the customer's instructions in order to safeguard order and safety and subject themselves to the customer's normal control procedures.

4.3 At the request of the customer, the contractor shall provide the customer with a list of the names of the employees it intends to use in providing the contractual services. The list shall be kept up-to-date at all times. At the request of the customer, the contractor shall furnish proof that all the employees used by it have social insurance cover as required by the law.

4.4 Before the services are commenced, the highest-ranking employee of the contractor shall contact the responsible employee of the customer, make arrangements on performance of the services and sign off after the services have been provided, unless otherwise agreed.

5. Prices

5.1 The price stated in the customer's order shall be binding and is a fixed price; value-added tax at the statutory rate shall be payable on top of it. Unless otherwise agreed, the price shall include all services and ancillary services of the contractor, as well as all incidental costs (such as material required to provide the services, protection of objects at risk against damage, travel expenses and times, and insurance). At the request of the customer, the contractor shall take back any packaging material at its own expense.

5.2 The prior written consent of the customer shall be required before services which are in addition to those specified in the order documents and which require payment are performed.

6. Time work

6.1 Billing of the services to be performed by the contractor by hours shall be permissible only in an individual case and with the express written consent of the customer (including with regard to the hourly rates to apply).

6.2 Unless otherwise agreed, daily reports shall be presented to the customer for signature in a single copy, including a carbon copy, without the contractor having to be requested to do so. The report must contain at least the following details: name of the customer, order and billing data, name and qualification of the person carrying out the service, the service performed, start and end of the work, duration of the work, material used. The customer shall return the report to the contractor in a single copy without a carbon copy immediately, but by no later than six (6) business days (Mondays to Saturdays) after receipt of the report. Signature of the report shall not be deemed as acknowledgement but only as confirmation of the nature and scope of the provided services. The customer can raise objections on the reports themselves or separately in writing. The contractor shall submit the signed reports together with the respective invoice. The services in reports which have been objected to shall not be billed.

7. Terms of payment

7.1 Payment shall be made only on the basis of verifiable invoices. The invoice must clearly reference the associated service.

7.2 Payment shall be made without deduction within 60 calendar days after complete performance of the service (and any agreed acceptance) and receipt of a proper invoice. If a payment is made within 30 calendar days, the customer shall be entitled to a 3% cash discount on the invoice's net amount. The date of receipt of the remittance order at the customer's bank shall determine whether this deadline has been met.

7.3 The customer shall not owe any interest after the due date (Section 353 of the German Commercial Code (HGB)). The interest on arrears per annum shall be 8 percentage points above the base interest rate.

7.4 The customer shall be entitled to rights of offsetting and retention and to plead nonfulfillment of a contract (Section 320 of the German Civil Code (BGB)) to the statutory extent. The contractor shall be entitled to offset its counterclaims and assert a right of retention only insofar as its counterclaim is not disputed, is ripe for judgment or has been ruled on finally and conclusively by a court of law.

7.5 The contractor shall not be authorized to assign its claims against the customer from the contractual relationship to third parties. This shall not apply if the claims are pecuniary claims.

7.6 The contractor shall be obliged to immediately refund excess payments discovered by other instances during checking of the invoices. If the payment is discovered to be too low, the difference shall be subsequently paid.

7.7 Already received payments on account shall be listed individually in all requests for payment along with their date and their total shall be deducted from the invoice amount.

7.8 Newly added items shall be listed at the end with reference to the subsequent order.

8. Deadlines, delays

8.1 The deadlines and periods of time stated in the customer's order shall be binding.

8.2 If the contractor realizes that the agreed deadlines or periods of time cannot be observed, it shall inform the customer immediately. The obligation to observe the agreed deadlines or periods of time shall not be affected thereby.

8.3 If the contractor is in delay in providing its service, the customer shall be authorized to demand flat-rate damages for delay of 1% of the net price of the service which the contractor is late in providing for each full week of the delay, but at most a total of 5% of the net price of the delayed service; the customer reserves the right to assert further statutory claims (in particular to demand rescission of the contract and damage in lieu of performance). The customer has to right to prove higher damage. The contractor shall have the right to prove that none or only far less damage has been caused by the delay.

8.4 If the contractor is in delay, the customer can, after setting a reasonable period of grace which elapses without remedy, perform the service that has not been provided, or have it performed by a third party, at the expense of the contractor; if this requires documents in the possession of the contractor, the contractor shall hand them over to the customer immediately. After setting a reasonable period of grace which elapses without remedy, the customer can instead rescind the contract. In the case of service agreements, the right of rescission shall be replaced by a right to terminate the agreement for cause.

8.5 The statutory provisions shall apply in addition to the arrangements in the above subsections.

9. Obligation to take out insurance

9.1 The contractor shall be obliged to maintain at its own expense commercial liability insurance at the customary terms and conditions and with cover of at least €5,000,000 per instance of injury to persons or damage to property and €5,000,000 per instance of economic loss. Upon its request, the customer shall be presented with a copy of the insurance policy and confirmation by the insurer.

9.2 The contractor shall be responsible for insuring its equipment and material. There is no insurance cover by the customer. Liability on the part of the customer for loss of or damage to equipment and material shall be excluded, unless this is due to gross negligence or wilful intent on the part of the customer or its employees.

10. Payment in the event of termination due to breach of contract

If the customer makes use of its right to terminate the contract due to a breach of it by the contractor, the services provided up to then shall be paid for at the contractually agreed prices only insofar as they can be used by the customer as intended.

11. Acceptance of services for which acceptance can be carried out

11.1 If the services to be provided by the contractor are work services, they shall require acceptance.

11.2 The contractor shall apply for acceptance in writing. The date of acceptance shall be agreed between the customer and contractor at a reasonable time after receipt of the written application.

11.3 Acceptance shall be deemed to have been granted only with the express written confirmation by the customer. The customer shall confirm acceptance by means of the acceptance record signed by it.

12. Rights in the event of defects and legal imperfections in title and in the case of breaches of duty by the contractor

12.1 The statutory provisions shall apply without restriction to the rights of the customer in the event of defects and legal imperfections in title relating to work services and in the case of breaches of duty by the contractor, as shall the provisions below.

12.2 If the work service is defective, the customer can demand at its discretion subsequent remedy in the form of rectification of the defect (repair) or production of a new work without defects (new production).

12.3 The customer shall not acknowledge any clauses of the contractor which limit liability.

13. Limitation of actions

13.1 The period of limitation shall be as defined by the statutory provisions, unless otherwise agreed hereinafter.

13.2 Contrary to Section 634a (1) No. 1 of the German Civil Code (BGB), the general period of limitation for defects and legal imperfections in title shall be three (3) years. The period of limitation shall commence upon acceptance in the case of services for which acceptance can be carried out.

13.3 A new period of limitation for liability for defects and legal imperfections in title shall commence for repaired or replaced work services upon express written acceptance of these services.

14. Implementation documents

14.1 If additional documents of the customer are required to provide the services, they shall be provided by the customer to the contractor upon request.

14.2 All implementation documents provided to the contractor shall remain the property of the customer and shall be held in safekeeping for the customer for the duration of the contract's execution and at the expense of the contractor. They shall be used only for the contractually agreed purposes and made available to third parties only to that extent.

14.3 If the contractor has to create documents itself as part of providing its services, it shall be obliged to provide them in the required number and design free of charge and to transfer ownership of them to the customer free of charge. Ownership of the intellectual property rights shall not be affected thereby. The customer or third parties may use these documents for carrying out maintenance work and changes free of charge.

14.4 The consent of the customer to drawings, calculations and other technical documents shall not affect the contractor's responsibility for the services. This shall also apply to suggestions and recommendations of the customer which have been implemented by the contractor and to changes agreed between the contractor and customer. The contractor shall be responsible for instructions carried out at the demand of the customer only if it does not object to them in writing stating reasonable grounds.

15. Duty to maintain safety, accident prevention, limitation of emissions, damage from emissions, fire prevention, obligation to indemnify

15.1 The contractor shall be obliged to observe its duties to maintain safety, in particular in regard to the safety and health of employees, protection of the environment, transportation of hazardous goods and fire prevention, and to comply with the relevant laws, regulations and provisions, including the instructional pamphlets of the mutual indemnity associations and the German Property Insurer Association (VdS), where they are pertinent to provision of the services.

15.2 The contractor shall obtain information on the requirements and regulations applying to the place of performance from the responsible experts of the customer for work safety and health, environmental protection and fire prevention. The necessary measures shall be coordinated respectively with said experts.

15.3 The contractor shall ensure that all the employees used by it act in such a way as to protect the environment, ensure safety and prevent fires.

15.4 Fire prevention requirements by the works fire brigade or the fire prevention officer must always be complied with. If work involving the risk of fire cannot be avoided on facilities where there is a risk of fire and/or explosion, such as oil containers, cable systems, etc., or in their vicinity, it may only be carried out with the prior written consent of the customer. Controls shall be carried out after the services have been completed. Steel welding work may only be carried out by companies that hold the qualification certificate pursuant to DIN 18800 / Part 7. Welding work on pipelines shall only be carried out by welders who can prove that they have passed an expert welder's examination in accordance with the current version of DIN EN 287-1(St).

15.5 The contractor shall indemnify the customer and the customer's employees against all claims against them due to a breach of the provisions to be observed for which the contractor is responsible. This shall apply in particular to claims due to damage caused when services were carried out on facilities of third parties (such as supply and disposal pipelines). The customer shall be informed as soon as such damage occurs.

16. Delivery and shipment regulations

16.1 The customer's delivery and shipment regulations and stipulations on the material used for packaging shall be observed. Packaging shall be restricted to the extent necessary to protect the goods and shall consist only of environmentally compatible and recyclable materials.

16.2 Costs incurred by the customer due to failure to observe these delivery, shipment and packaging regulations shall be borne by the contractor.

17. Data privacy

In order to perform the contractual services, the contractor shall only use employees who have been obligated to maintain data confidentiality in accordance with the German Federal Data Protection Act (BDSG). The contractor shall ensure that all employees entrusted with handling or fulfilling the contract comply with the provisions of the German Federal Data Protection Act (BDSG). The contractor shall ensure that the measures to safeguard data have been taken as required by the German Federal Data Protection Act (BDSG) and, upon the request of the customer, shall provide the latter with the information and proof required for job control in accordance with the German Federal Data Protection Act (BDSG).

18. Confidentiality

18.1 The contractor shall be obliged to treat with confidentiality all information of which it gains knowledge through the customer (e.g. business and trade secrets, data and its sequence and results, any other type of technical or commercial information) and use it only for fulfilling the contract. The information must never be disclosed to third parties; exemptions to this are employees of the contractor and other vicarious agents, provided they need the information to fulfill the contract. The contractor shall maintain confidentiality on the fact that a contract has been concluded. It shall name the customer as a reference to third parties only with the written consent of the customer.

18.2 The obligation to maintain confidentiality shall remain in effect for five years after the contract in question ends.

18.3 The obligation to maintain confidentiality shall not exist as regards information which

- is public domain or

- the contractor gains knowledge of through a third party without an obligation to maintain confidentiality being violated.

18.4 If the contractor receives or stores information that needs to be kept confidential in electronic form, it shall protect this data like personal data against unauthorized access in accordance with the German Federal Data Protection Act (BDSG).

18.5 The contractor shall obligate its employees and other persons it uses to fulfil its contractual obligations in accordance with the above provisions on confidentiality and ensure that this obligation is observed.

19. Compliance

19.1 The contractor shall observe the customer's Code of Conduct in providing its services and urge its employees and subcontractors to observe it as well. The Code of Conduct can be downloaded from <http://www.euromicron.de/downloads/filemanager/euromicron-verhaltenskodex.pdf> or obtained from the customer upon written request.

19.2 The contractor undertakes to comply with the statutory provisions on combating illicit work, the German Act on the Posting of Workers (*Arbeitnehmerentsendegesetz (AEntG)*), the German Personnel Leasing Act (*Arbeitnehmerüberlassungsgesetz*) and the provisions under social insurance law, in particular on payment of contributions. The contractor shall maintain and constantly update lists of employees used by it and its subcontractors on the building site. The contractor shall ensure that all employees working on behalf of its subcontractors on the building site have an identity card and social insurance card on them at all times. These lists and proof that the relevant social security contributions have been paid shall be presented to the customer. The contractor shall also be obliged to present constantly updated SOKA-BAU certificates and information, unless it has produced a clearance certificate or certificate of negative clearance.

19.3 The contractor shall be obliged to indemnify the customer against all claims of employees of the contractor, employees of its subcontractors and all employees of all other subordinate subcontractors, any lessors of personnel and the social welfare funds in accordance with Section 1 a AEntG and Section 28 e (3) a-f of German Social Code IV (SGB IV) and other statutory provisions specifying such liability.

19.4 If the contractor violates the obligations in Sections 19.1 and 19.2, this shall give the customer the right to terminate the contract for an important reason in accordance with Section 8 No. 3 VOB/B (German Construction Tendering and Contract Regulations) without the need to threaten to terminate it.

20. Final provisions

20.1 The place of performance for services and payments shall be the place of the customer's registered offices.

20.2 If a provision of these General Terms and Conditions of Purchase are or become void or invalid, in full or in part, this shall not affect their remaining provisions. If provisions have not become part of the contract or are invalid, the content of the contract shall be based on the statutory provisions. Only otherwise and if no supplementary interpretation of the contract has precedence or is possible shall the parties replace the void or invalid provision by a valid arrangement that corresponds as closely as possible to its intended economic purpose.

20.3 If a parties stops its payments or insolvency proceedings on its assets or out-of-court composition proceedings are applied for, the other party shall be authorized to withdraw from the part of the contract that has not been fulfilled.

20.4 The place of jurisdiction shall be the place of the general courts with jurisdiction for the customer. However, the customer shall be authorized to take legal action against the contractor at the latter's place of general jurisdiction.

20.5 There are no verbal collateral agreements. However, if such agreements have nevertheless been concluded before the inclusion of these General Terms and Conditions of Purchase, they shall lose all validity upon inclusion of these General Terms and Conditions of Purchase.

20.6 The business relationship between the parties shall be subject solely to the law of the Federal Republic of Germany. The United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not apply.