



## **Specification ISD 454**

General terms and conditions of purchase  
INTERROLL Automation GmbH



## **1. General, scope of validity**

- 1.1 Our general terms and conditions of purchase are applicable to purchased goods and services as well as sub-contracted work.
- 1.2 Our general terms and conditions of purchase are valid exclusively for corporations in accordance with the German Civil Code (BGB) § 14 i.e., physical or legal persons or entities who act in accordance with their corporate or independent professional activity when concluding a contractual agreement.
- 1.3 Our general terms and conditions of purchase are valid exclusively for all contracts agreed with our contractual partners (hereafter referred to as suppliers). Terms and conditions of the supplier which may be contrary or different to our general terms and conditions of purchase are only considered applicable if they have received our prior written acceptance. Our general terms and conditions of purchase remain valid even when we are aware of the fact that the supplier's terms and conditions of supply or service are contrary or different to our general terms and conditions of purchase and accepted without reservation.
- 1.4 With the first supply of goods or services based on the present general terms and conditions of purchase, the supplier acknowledges acceptance our general terms and conditions of purchase in its current version for all further contractual transactions.
- 1.5 All agreements concluded between us and the supplier in reference to execution of the present contract, and which go beyond or differ from our general terms and conditions of purchase, must be stipulated in writing in this contract. Modifications or additions to the contract, as well as oral agreements may only be considered valid after written confirmation by us. Oral agreements have no validity.

## **2. Contract validity and content**

- 2.1 Only written orders which are signed or foreseen with our electronic certificate of provenance are considered valid and legally binding. Exclusively the content of our order form is binding with respect to the contractual content.
- 2.2 The supplier must confirm our order in writing within two (2) working days following the date of order placement. At the end of a reasonable period of time of at least 5 working days, we are legally entitled to cancel our order. Claims submitted by the supplier following a legally executed cancellation are excluded.
- 2.3 We are legally entitled to withdraw from the agreement or, in case of continuing obligations, to cancel the contractual agreement without prior notice when the pecuniary circumstances of the supplier become so precarious that it seems likely that the supplier will not be in a position to fulfil the contractual obligations either at all, or not within the pre-defined time frame.
- 2.4 We are entitled, even after conclusion of the contract, to request modifications to the deliverables to be supplied when using equitable discretion (German Civil Code § 315 BGB) and when the modifications requested of the supplier is not considered unreasonable.
- 2.5 The supplier may only conclude sub-contracts with sub-contractors with our prior written consent. However, we are only entitled to refuse such consent for business reasons. Business reasons apply, in particular, when it would appear evident that the third-party concerned is not sufficiently qualified to execute the contractual order correctly, or for any other reason appears unsuitable or unfit to fulfil the planned contractual obligations. In the case of intervention of sub-contractors, the supplier remains responsible for these goods or services provided in the same way as for its own goods or services.

## **3. Delivery, Service, Delay, Contractual penalty, INCOTERMS**

- 3.1 Unless agreed otherwise in writing, the deliverables will be delivered in compliance with INCOTERM DDP (Delivered Duty Paid). This also includes packaging. The agreed deadlines for the supply of deliverables or services are contractually binding and fixed. It is to be understood that compliance with the purchase agreement for deliverables, or the service agreement for services rendered, or work contracts for work to be carried out refers to supply or execution at the agreed site of delivery or execution.
- 3.2 The supplier must inform us as soon as possible, first verbally and then in writing, of any circumstances which arise or become known to him whereby the contractually agreed delivery deadline for deliverables or services cannot be met. This



also applies when the deliverables or service supplier is not responsible for the supply delay. In the case of non-respect of this obligation, the supplier will be responsible for reimbursement of any damages suffered by us. The supplier must provide, in writing, a detailed description of the cause of this delay together with the planned corrective measures adopted or to be implemented in order to correct the problem.

- 3.3 In the case of the supply of deliverables before the agreed delivery date, we reserve the right to return the deliverables to the supplier at its expense. When the deliverables delivered too early are not returned, they are stored on site until the effective delivery date at the expense and risk of the supplier. For the schedule of payments to suppliers, refer to number 7 below.
- 3.4 Partial delivery of deliverables or services are only accepted after prior written agreement. When partial delivery is approved, the remaining deliverables must still be provided. Without prior written approval, establishment of partial delivery of deliverables or services is prohibited.
- 3.5 In case of late delivery of deliverables or services, legally defined penalties will be applied by us. In particular, at the end of an extension period without success, considered to be reasonable, we are entitled to claim damages instead of service and to withdraw from the contract, even just for the incomplete part. Should we claim damages, the supplier is entitled to provide proof that the failure to meet its obligations was not of its doing. The aforementioned extension period has no reason to be when a fixed delivery deadline has been agreed with the supplier.
- 3.6 In case of a delay in the supply of deliverables or services, we are entitled to claim a late delivery penalty of 0.5 % of the net shipment value for deliverables shipped or 0.5 % of the agreed net payment sum per late day. However, this sum may not exceed a total of 5 % of the net value of deliverables or services; further legal claims, in particular, claims for damages as calculated in compliance with the contractual penalties, as well as the rights indicated hereafter, remain potentially applicable. The contractual penalty may not be applied when the supplier is able to prove that no, or considerably less, damages were effectively suffered; in the latter case, we are entitled to submit a compensation claim for the true damages suffered.
- 3.7 Should the supplier fall behind with the supply of deliverables, we are entitled, until the backlog has been remedied, to procure deliverables from other, or our own sources at the expense of the supplier and to thus reduce the delivery volume of the supplier accordingly without compensation, or the supplier may be instructed to obtain the missing deliverables from a third-party under the same price conditions as agreed with the supplier itself. Other or additional contractual and/or legal rights remain unaffected.
- 3.8 The acceptance of late delivery of deliverables or services by no means implies a waiver of a damages compensation claim or the contractual penalties. The withholding of a contractual penalty for late delivery of deliverables or services is due when we deduct the sum in question from the next but one invoice to be settled.
- 3.9 For shipping volumes, number of parts, weights and dimensions, pending additional proof, the values and numbers ascertained by us during incoming goods inspections prevail.
- 3.10 Should our order contain an INCOTERMS clause, then this INCOTERMS clause is valid in its latest edition unless stipulated otherwise in our order.

#### **4. Shipping regulations, Delivery time**

- 4.1 Packaging of deliverables shipped must be appropriate and environmentally-friendly, using suitable containers and means of transport and must comply with our corresponding shipping and packaging requirements as well as any applicable legal requirements. In the case of hazardous substances, the additional ordinance on hazardous substances must also be respected.
- 4.2 Each delivery must be accompanied by a bill of lading. The bill of lading and all shipping documents must indicate the date of shipment, our reference, article and possible drawing number for the deliverables shipped as well as the shipping volume; should the supplier fail to comply with this requirement, then we will not be held responsible for delays in processing. Any costs caused by non-compliance to the aforementioned requirements will be reimbursed by the supplier.
- 4.3 The delivery deadline, or delivery date indicated by us in our order is contractually binding for the supplier. If a calendar week is indicated, then it is to be understood that the last working day of this calendar week is the final date for incoming goods reception. If, however, a precise day for incoming goods reception is indicated in our order, then this day applies even if the supplier simply indicated the corresponding calendar week in his order confirmation.



4.4 For shipping, the applicable tariff, transport and packaging regulations of the postal service, as well as rail, road, sea or air transport regulations must always be respected. Particular attention must be paid to possibly applicable customs and hazardous substances regulations. If no specific shipping requirements have been indicated by us, then the most cost-effective means of transport should be selected.

4.5 Should sub-contractors be involved, then these sub-contractors must indicate the supplier as their contractee in all written exchanges and shipping documents as well as the aforementioned order date.

## **5. Product identification**

deliverables shipped must be marked and identified in accordance with possibly applicable legal requirements and EU guidelines. The supplier will transmit at an appropriate time before shipping of the deliverables all product information necessary in its latest version, in particular documents relative to composition and shelf life e.g. safety data sheets, processing instructions, marking and identification regulations, assembly instructions, work protection measures and specifications, etc.

## **6. Proof of performance and acceptance**

6.1 All contractually defined proof of performance or acceptance trials are to be carried out free of charge for us and an inspection report will be signed by both parties.

6.2 Assumed acceptance is excluded.

6.3 Also in the case of a contract for work and materials, the requirement for payment due is an official acceptance in accordance with number 6.1 above.

## **7. Price, payment**

7.1 Contractual prices are, when not agreed otherwise in writing, fixed, free to the door prices and include all packaging and transport costs for shipment to the indicated point of reception or dispatch point as well as customs duties and formalities, etc.

7.2 Currently applicable value-added tax is not included in the price. The value-added tax applicable at the time of invoicing must be indicated separately in the invoice. Price increases require our written approval. The order date must be indicated in the invoice. The invoice is to be sent separately after shipping to the invoicing address indicated on the order form.

7.3 The means and method of payment will be of our choice and as follows:

(a) Unless agreed otherwise, invoices will be paid by us within 30 days net. The payment deadline begins after reception of the deliverables at the point of reception (shipping address) or acceptance of the service or work and reception of the invoice at the invoicing address indicated in the order form.

(b) Payment by us within 14 days following reception of the invoice and deliverables, entitles us to a 3% discount.

7.4 The payment deadline begins following complete delivery or execution of services and reception by us of the corresponding invoice indicating our order number, as well as contractually applicable sales tax and VAT number of the supplier.

7.5 We reserve the right to select the means and method of payment. In the case of a bank transfer payment, this payment obligation is considered fulfilled on time once the transfer order has been sent to our bank.

7.6 In the case of early reception of deliverables or services, the payment deadline applied is that of the originally agreed delivery date. Payment of an invoice may not be considered as waiving rights to claim for possible defects and by no means represents acknowledgement of fulfilment of contractual obligations.

7.7 In the case of incomplete or faulty delivery of deliverables or services, we are entitled to withhold payment, either entirely or proportionally, until the contractual commitment is fulfilled correctly. A right of retention and offset against claims from us are only applicable for the supplier when these claims are recognised by us to be legally valid, unless the counter-claim is based on an infringement of fundamental contractual obligations (see number 20.1) on our part.



7.8 If there are several claims, the supplier shall not oppose our determination of the claim to be set off.

## 8. Force majeure

8.1 Should one of the parties be prevented from executing its contractual obligations for reasons of force majeure i.e. war, civil unrest, strikes, lock-outs, official interventions, lack of power supplies or raw materials as well as operation stoppages for which they cannot reasonably be held responsible e.g. fire or water damage, machine damage or any other cause preventing normal operation, for a period in excess of two (2) weeks, then this obligation of service is not applicable for the period during which the aforementioned obstructions exist, provided the party concerned has not accepted a procurement risk.

8.2 In the case where respect of the individual order due to the service hindrances listed in number 1 above is deemed impractical or unreasonable for the party concerned, then the other party is entitled to withdraw from the contract due to partial non-respect of the individual order agreement.

## 9. Property rights

9.1 Should the supplier's general terms and conditions of trade include delivery under retention of title, then it is herewith agreed that this may only be considered to be a *simple* retention of title. In this case, the supplier authorises us to process and sell on as part of our normal business activity.

9.2 An augmented and/or extended retention of title is not accepted by us.

## 10. Defect investigation, liability for defects

10.1 We are only obliged to check the deliverables supplied for obvious and apparent transport damage, identification/labelling and defects. We have no obligation to carry out further investigations and give notice of defects. The supplier must compile an 8D report in case of defects.

10.2 We are entitled to the legally attributed claim for defects; in all cases we are entitled to request from the supplier, in case of a defect, either remedying of the defect or supply of new deliverables or services under the terms of the signed purchase or work contract. We explicitly reserve the right to claim damages, in particular the claim for damages instead of service.

10.3 Should we incur costs due to a breach of contractual obligations by the supplier by supplying defective deliverables, in particular, transport, shipping, labour and/or material costs, as well as costs in relation to incoming goods inspections above and beyond the normal scope of inspections, then these costs will be fully reimbursed to us by the supplier.

10.4 In the case whereby the defective deliverables are returned to the supplier, then the supplier will bear all risks and responsibility for decay and deterioration of the deliverables.

10.5 The limitation period in case of a breach of obligations due to poor performance of duties is 36 months for the date of commissioning of the machine, in which the supplier's deliverables are incorporated at our end customer's site, with a maximum, however, of 48 months from the date of delivery/transfer of the deliverables in question. The limitation period in the case of defects of title is 10 years from the date of transfer of risk.

10.6 With the exception of legally applicable circumstances, the period of limitation applied to the period of limitation for claims and rights due to breach of obligation for poor performance remains suspended during the period between identification of the defect and complete remedying of said defect.

10.7 The supplier must, on the January 1<sup>st</sup> of each year, provide us with a long-term supplier's declaration for the deliverables supplied indicating the country of origin, part codes, customs number and weight.

10.8 If material defects arise in the deliverables during the warranty period, the supplier may first repeat performance within a reasonable period of time, insofar as we can be expected to accept this; we shall be entitled to determine the manner in which performance is repeated. The supplier shall be entitled to refuse our chosen manner of repeat performance under the conditions pursuant to the German Civil Code § 439 Abs. 2 (BGB).

10.9 Our claim for damages or compensation for futile expenses shall remain unaffected. All costs incurred for repeat performance, replacement or repair (labour/materials/transport/call-back required, etc.) shall be borne by the supplier.



- 10.10 We shall be entitled - without relieving the supplier from its obligations - to remedy a defect ourselves at the supplier's expense if danger is imminent or the case is particularly urgent or if the defects are of a minor nature and the cost of remedying them does not exceed 5 % of the net delivery price for the defective deliverables or if a disproportionately high damage in relation to the delivery price is imminent.
- 10.11 In the case of defects in title, the supplier shall additionally indemnify us against any third-party claims.
- 10.12 If we are obliged to take back finished and/or sold deliverables due to a defect caused by the deliverables provided by the supplier, or offer a price reduction, or any other claims which may be brought against us for this reason, we reserve the right of recourse against the supplier, whereby there need not be a set period of time in which to lay claim to our rights in relation to the defects from the supplier.
- 10.13 Notwithstanding the aforementioned provision, the limitation period for breach of obligation due to poor performance in the form of material defects shall begin to run not less than two months after the point in time at which we have satisfied our customer's justified claims against us on account of the defect, but not more than five years after delivery by the supplier.
- 11. Assurances of suppliers, REACH, RoHS, Code of Conduct, procedure in case of breach of obligations due to poor performance**
- 11.1 The supplier guarantees that all deliveries/services are state-of-the-art, comply with the relevant national and European legal provisions, as well as the regulations and guidelines issued by public authorities, employers' liability insurance associations and professional associations in the Federal Republic of Germany. In addition, the supplier shall be responsible for the environmental compatibility of the delivered products and packaging materials. Insofar as it is necessary to diverge from these regulations in individual instances, the supplier is obliged to obtain our prior written consent thereto. Other obligations under purchase contracts or contracts for work, including warranties for the nature of the deliverables or work, shall remain unaffected by such consent.
- 11.2 In particular, the supplier undertakes to comply with all requirements and measures stipulated by the bye-law n°. 1907/2006 of December 18<sup>th</sup>, 2006 (REACH requirements) as well as the guideline 2011/65/EU („RoHS“) for all deliveries/services for materials, preparations and goods provided by them. Should the supplier fail to respect the obligations stipulated in the REACH regulations or RoHS guidelines which may apply, we are entitled to withdraw from the contract insofar as the deliverables provided by the supplier do not, or no longer, comply with the requirements of the REACH regulations.
- 11.3 In addition, the supplier undertakes to comply with the Interroll Code of Conduct, which may be consulted under the link provided hereafter, or which may be sent to the supplier by us upon request:
- [https://www.interroll.com/fileadmin/user\\_upload/Downloads\\_PDF/Company/Supplier\\_code\\_of\\_conduct/Supplier\\_Code\\_of\\_Conduct\\_Final\\_060317\\_DE.pdf](https://www.interroll.com/fileadmin/user_upload/Downloads_PDF/Company/Supplier_code_of_conduct/Supplier_Code_of_Conduct_Final_060317_DE.pdf)
- 11.4 The scope of delivery will comprise, at no extra cost, the product specifications and/or technical documentation, conformity certificates, as well as documents required for use of the deliverables provided and operating instructions and certificates both in German and English as well as the language of our end customer in accordance with our order and legal requirements for identification and marking of parts, goods and/or packaging.
- 11.5 If the deliverables or the work to be performed or the service rendered do not comply with a given warranty or warranted property, the supplier shall be liable for all resulting damage, including consequential damage.
- 11.6 When we are entitled to damages due to material defects or defects of title or withdrawal from the agreement, we may claim a flat-rate sum equivalent to 10 % of the net order sum. Claims for additional damages is not excluded. The supplier is entitled to provide proof that the damages suffered due to defects or defects of title are non-existent or considerably less than the flat-rate sum.
- 12. Export control and foreign trade data**
- 12.1 The supplier is aware of the fact that the export of certain goods by us e.g. due to the type of deliverables or their intended use or final destination, may require the obtaining of specific authorisations. The supplier must therefore comply with all national and international, customs and foreign trade laws and requirements for all deliverables shipped abroad or services carried out abroad. The supplier must also obtain all authorisations and certificates necessary for export unless the applicable foreign trade law requires us or a third-party, and not the supplier, to request such export documentation required.





- 12.2 The supplier must inform us in writing at the earliest possible date before planned shipping of deliverables or execution of services of all information and data required in accordance with the applicable foreign trade law relative to import/export as well as in the case whereby the services or deliverables are further processed and re-exported. The supplier is also obliged to provide us with the following information for each individual item/service:
- (a) the "Export Control Classifications Number" in compliance with "U.S. Commerce Control List" (ECCN), as long as the deliverables are subject to "U.S. Export Administration Regulations",
  - (b) all applicable export list numbers,
  - (c) the statistical part number based on the current part categorisation of the foreign trade statistics and HS ("Hamonized System") Code,
  - (d) the country of origin (non-preferential origin) and transfer of all certificates of origin,
  - (e) whether or not the deliverables are in principle suitable for application in arms, nuclear or weapons related industrial branches,
  - (f) when requested by us, the export control and foreign trade data, i.e. the supplier's declaration of preferential origin (for European suppliers) or the certificate of preference (for non-European supplies).

12.3 In case of a change of origin of the deliverables, or a change in the deliverables or service properties, or a change in the applicable foreign trade law, the supplier must inform us in writing at the earliest possible time before the planned delivery date of the updated export control and foreign trade data.

12.4 The supplier will bear all justified costs for expenditures and damages (including internal processing and administration costs) caused by an error or failing in the export control and foreign trade data. The supplier is therefore obliged to release us of all possible damages due to culpable violation of the obligations stipulated in numbers 12.1 to 12.3 above. The scope of damages to be reimbursed also includes all expenditures deemed appropriate and necessary which have been or will be incurred. This includes in particular all legal defence costs, as well as all costs in relation with legal decrees or fines.

### **13. Product liability, exemption from liability, third-party liability insurance**

13.1 Unless agreed otherwise in writing, insofar as the supplier is responsible, as well as ourselves, to a third-party for product damage, also in external relations, the supplier shall be obliged to indemnify us against all third-party claims for damages at first request if the origin lies within the supplier's organisation and sphere of control. In addition to damages to third-parties, the supplier's duty to indemnify shall also include the costs of reasonable legal defence, call-back costs, costs for testing and inspection, costs for replacement and our reasonable administrative costs and other expenses incurred for processing the damage.

13.2 In connection with its liability for damage pursuant to § 13.1, the supplier shall also be obliged to refund any expenses as defined by §§ 683 and 670, as well as 830, 840 and 426 of the German Civil Code (BGB) resulting from, or in connection with, a call-back campaign by us. This shall apply in particular to call-back campaigns within the scope of the law on product safety. Where possible and reasonable, we shall inform the supplier of the content and scope of the call-back measures to be undertaken and shall give the supplier the opportunity to comment. Other statutory rights shall remain unaffected.

13.3 The supplier shall be obliged to maintain product liability, product call-back and operating liability insurance with a minimum cover of EUR 5 million per occurrence of damage and independent of previous damage claims during the insured period, with a reputable insurance broker with head-office/branch in Germany. In particular, these insurance policies must also cover dismantling and installation costs, as well as inspection and sorting operations to the aforementioned sum. The supplier must maintain this insurance coverage during the entire contractual period and for an additional period of 6 months after expiry of the agreed warranty period and provide proof of this coverage by transmitting copies of the insurance policy to us. The same applies for proof that all insurance payment instalments are made on time. No or insufficient insurance coverage may be considered by us as sufficient grounds to terminate the agreement due to gross negligence.

### **14. Access to and movement on site**



The instructions of our personnel and/or the works security staff shall be followed when entering our company site by vehicle or on foot. Due prior notice shall be given before entering our site by vehicle or on foot. Statutory regulations governing road traffic and licensing shall be observed.

## **15. Waste disposal**

If the supplier's deliveries/services produce waste as defined by the law on waste management, the supplier must recycle or dispose of such waste at its own expense - unless agreed otherwise – in accordance with the provisions of the law on waste management. Ownership, risk and legal responsibility shall pass to the supplier at the moment at which the waste is produced.

## **16. Third-party industrial property rights**

- 16.1 The supplier shall be responsible for ensuring that third-party rights are not violated in connection with the supplier's delivery or performance.
- 16.2 If an action is brought against us by a third-party for violation of industrial property rights, the supplier shall be obliged to indemnify us against such claims at first written request. We shall not be entitled to enter into any agreements - in particular to conclude a settlement - with the third-party without the supplier's consent.
- 16.3 The supplier's duty to indemnify shall apply to all expenses which we necessarily incur through or in connection with the claims asserted by a third-party, especially the costs of legal defence and administrative costs, as well as all costs incurred in obtaining the necessary replacement.
- 16.4 If the sale of deliverables or work to us and/or their use by us is prohibited, the supplier shall at our discretion either obtain the right of use for us and at its expense, or shall modify the deliverables or work performed at its expense and in consultation with us in such a way that the violated property right is no longer applicable.
- 16.5 The limitation period for claims pursuant to paragraphs 16.1 to 16.4 above is 10 years as of conclusion of the contract.

## **17. Documents and confidentiality, protection of know-how**

- 17.1 All business or technical information and data of any kind which we have made available, including characteristics contained in items, documents or data provided and other know-how or experience - hereinafter collectively referred to as "information" - shall be treated confidentially by the supplier in relations with third-parties - for as long as and to the extent that the information is not proven to be in the public domain - and may only be made available to those persons in the supplier's own company who must be able to use such information for the purpose of effecting delivery to us and who have likewise given a written undertaking to maintain confidentiality. We retain the exclusive property rights for all information.
- 17.2 Without our prior written consent, such information may not be duplicated or used for commercial purposes other than for deliveries or services for us. Our prior written consent is also required should the supplier wish to use our name, logo or other trade mark for advertising purposes during the contractual period.
- 17.3 The aforementioned agreement concerning confidentiality and use of information shall survive termination of the delivery relationship until the information or characteristic concerned lawfully enters the public domain.
- 17.4 At our request, all information or data obtained from us (including copies or records) and items provided on loan shall be returned to us immediately and completely, or destroyed and their destruction confirmed to us in writing.
- 17.5 We reserve all rights to such information and data (including copyright and the right to use industrial property rights, such as patents, industrial designs, protection of proprietary rights, etc.). If these were made available to us by third-parties, this reservation of rights shall also apply in favour of such third-parties.
- 17.6 Items produced according to documents prepared by us, or according to our confidential information, shall not be used by the supplier itself, nor offered or made available to third-parties, unless the information which we have specified has lawfully entered the public domain or is state-of-the-art.
- 17.7 Drawings, drafts etc., which the supplier has prepared on the basis of our specific information, shall become our unrestricted property without additional remuneration. Declarations to the contrary by the supplier, e.g. on documents handed over to us, shall not be binding.





## 18. Safety regulations

- 18.1 For its deliveries and services, the supplier shall comply with applicable safety regulations and the parameters or limit values corresponding to the state-of-the-art or as agreed beyond the state-of-the-art.
- 18.2 The supplier undertakes to exclusively use materials in compliance with applicable statutory safety requirements and regulations. This shall also apply with regard to regulations designed to protect the environment. This obligation shall encompass all regulations in force for Europe, including the country of manufacture, as well as the regulations of the importing countries reported to the supplier with our order, if they diverge from the former.
- 18.3 If we intend to ship the deliverables, subject of the present agreement, to a new foreign market, we shall inform the supplier accordingly without delay. The parties shall inform themselves with regard to more stringent quality and/or manufacturing standards in force there. If the supplier does not declare within one month that it is familiar with and can comply with the new quality and/or manufacturing standards, it shall be deemed agreed that the supplier is familiar with and can comply with the quality and/or manufacturing standards in force there.
- 18.4 If the supplier's products do not meet the requirements imposed in § 18.1 to 18.3 above, we shall be entitled to rescind the contract. Further claims for damages shall remain unaffected.
- 18.5 Planned modifications in the deliverables or performance must be notified to us in writing. They shall require our prior written consent.

## 19. Quality management system, auditing

- 19.1 In accordance with the deliverables and services delivered, the supplier must provide comprehensible and justifiable proof that a **quality management system** (e.g. as in ISO 9000 ff) and environmental management system (e.g. as in ISO 14001) have been adhered to.
- 19.2 We shall be entitled to perform our own audit of the supplier or to have an audit performed by an expert of our choice. Such an audit shall comprise inspection of the supplier's company and quality assurance system, with subsequent evaluation. The resulting findings shall be used by us as the basis for placing subsequent orders and for an internal rating of the company.

## 20. Liability, exclusion and limitation of liability

- 20.1 We shall be liable, in accordance with law, for our own intentional or grossly negligent breach of duty and intentional or grossly negligent breach of duty of our legal representatives or vicarious agents. We are also liable, in accordance with law for material breach of contractual obligations for any fault and in the event of justified impossibility as well as in the event of injury to life, limb and health for any fault also by our legal representatives or vicarious agents and any other cases of mandatory statutory liability.

"Material contractual obligations" are obligations that protect the legal positions of the customer which are material to the contract and which have to be granted to the customer under the contract in terms of subject matter and purpose; material contractual obligations are also obligations the fulfilment of which makes the due performance of the contract possible in the first place, where the customer regularly relies on and may rely on compliance with such obligations.

In cases other than those indicated in n° 20.1, we shall also be liable in accordance with law for culpable breach of duty without regard for the legal nature of the claims made against us, as well as damage claims asserted against us under this contractual relationship, **but not** in the case of minor negligence.

- 20.3 In the event of liability under n° 20.2 above and liability without negligence, in particular in the case of initial inability and defects in title, as well as material contractual obligations, we shall be liable only for typical and foreseeable damage, insofar as we, or our managerial staff or vicarious agents are not accused of gross negligent breach of duty.
- 20.4 Any further liability for damages as that indicated in the numbers above, without regard for the legal nature of the claims made shall be excluded. This applies in particular for claims for damages arising from breaches of duty in the conclusion of the contract, on account of other breaches of duty or for material damage on account of tortious claims pursuant to German Civil Code § 823 (BGB).



- 20.5 Exclusion with respect to limitation of liability according to the aforementioned numbers 20.1 to 20.4 shall apply to the same extent for the benefit of executive and non-executive employees and other vicarious agents as well as our sub-contractors.
- 20.6 Claims by the supplier for damages from this contractual relationship may only be asserted within a preclusion period of one year as of commencement of the statutory limitation period. This shall not apply if we are culpable of malice or gross negligence.
- 20.7 There is no connection between the reversal of the burden of proof and the foregoing stipulations.

## **21. Minimum wage legislation, guaranteed minimum wage**

- 21.1 The supplier herewith declares and certifies that its own employees, in particular when they are called upon to execute operations in relation with contractual obligations towards us, are legally employed and paid in accordance with valid legislation and regulations relative to minimum wage payment.
- 21.2 If requested by us, the supplier will provide without delay with all corresponding documentation (in particular time sheets and wage slips) to justify that the minimum wage regulations were and still are respected and the legal minimum wage has effectively been paid.
- 21.3 On the 30.06. and 31.12. of each calendar year, the supplier will transfer unprompted the justifications stipulated in number 21.2 in order to provide proof to us that the minimum wage legislation and regulations have been respected.
- 21.4 Should the supplier wish to call upon the services of another company, service-provider or sub-contractor in order to meet its contractual obligations to us, then the supplier will be required to provide proof that the same minimum wage legislation and regulations are also complied with by these partners. If requested by us, the supplier will also provide us with a copy of the document proving that the minimum wage regulations have also been adhered to by the sub-contractors.
- 21.5 The supplier will ensure that minimum wage legislation and regulations are adhered to by companies, service-providers or sub-contractors engaged by it and will, in certain cases where called for, verify this compliance with requirements and transmit the verification results to us without delay and unprompted.
- 21.6 In the case where the supplier fails to respect the aforementioned requirements, either totally or partially, or provides false information relative to its respect of the minimum legal wage legislation, we are legally entitled to terminate our contractual arrangement immediately and without prior notice. This termination right also applies when the companies, service-providers or sub-contractors engaged by the supplier, the employees of which are called upon to execute operations in relation with contractual obligations towards us, fail to adhere to the minimum wage legislation and regulations.

The allegation of failure to comply with minimum wage legislation and regulations is considered justified when the supplier does not provide complete and verifiable evidence to the contrary within 10 days after having been informed of the allegation. Prior notice is not required.

- 21.7 All damages incurred by us, either direct or indirect, due to a failure to comply with the aforementioned requirement or in relation with termination of the contract, will be reimbursed to us by the supplier.
- 21.8 The supplier will release us upon first request from all demands or claims made by third-parties, including its sub-contractors, service-providers or other companies, as well as any fines in relation with a failure to comply with legal minimum wage legislation and regulations, including legal defence fees, insofar as these claims or demands are based on a non-compliance of the supplier with the obligations in relation with this declaration.

In case of recourse, we are entitled to demand from the contracting partner a guarantee which is adequate and in accordance with potential damages incurred.

## **22. Spare parts**

- 22.1 The supplier will retain a stock of spare parts for the items delivered to us for a period of at least 10 years after delivery.
- 22.2 Should the supplier decide to stop producing spare parts for the items delivered to us, then it must inform us of this decision without delay. This decision must, under reserve of paragraph 1 – be notified at least one year before effective end of production.



**23. Legal venues, applicable law, final provisions**

- 23.1 Legal venue is the location of our company's registered office unless another legal venue is prescribed by law.
- 23.2 The law of the Federal Republic of Germany shall exclusively apply to all legal relations between the supplier and ourselves, expressly excluding the UN Sales Convention. The aforementioned stipulations shall also apply if the supplier is of foreign origin or its registered office is located abroad.
- 23.3 Assignments by the supplier outside the scope of application of § 354 a of the German Commercial Code (HGB) shall be excluded. Exceptions shall only be valid with our written consent.
- 23.4 Place of performance is the place of delivery specified by us; if not specified, place of delivery shall be the registered office of our company. Place of performance for payments to us is the registered office of our company.

**Note:**

**According to the provisions of the Federal Data Protection Act, we draw attention to the fact that our accounting is maintained on EDP systems, and that we also in this respect store data received as a result of the business relationship with the supplier.**

**INTERROLL Automation GmbH, Sinsheim**