

## General Terms and Conditions of Delivery and Payment

of interconti Industrie GmbH  
(last revision 03\_2012)

### I. General provisions

1. The below terms and conditions apply for all business transactions with the purchaser who is not a consumer.
2. The supplier does not accept general terms and conditions of the purchaser. They apply only if and inasmuch the supplier confirms explicitly in writing.
3. By accepting the goods without rejection, any previous rejection by the purchaser to these provisions becomes void.
4. Arrangements made after concluding the agreement must be made in writing or in electronic form to become effective.
5. If provisions of this Agreement or the below provisions are or become void in part or in full, this will not affect the effectiveness of this Agreement or the other provisions.

### II. Offers

1. The supplier's offers are non-binding. Our general terms and conditions of sale and delivery apply in the respectively valid version.
2. The purchase agreement takes effect with the written confirmation of an order by the purchaser or with the delivery of the ordered goods.
3. The supplier will remain entitled to correct faulty details of prices/delivery terms even after concluding the Agreement.
4. We reserve all unlimited rights to quotes, drawings and other documents. They must not be disclosed to third parties without our approval. If the order is not placed with us, any drawings and other documents belonging to our proposals must be immediately and completely returned to us.
5. Customer requirements regarding recurring requalification of products (corresponding to formula Q, specifically Pt. 4.7 or comparable) have not been considered in the calculations for our quotations and will, if not specifically requested separately, be offered additionally upon customer request

### III. Prices

1. The prices of the supplier are ex works and exclusive of costs for packaging, transport and statutory VAT.
2. Additional services such as express dispatch, etc. are charged separately.
3. If the supplier has assumed installation or mounting, the purchaser will bear in addition to the agreed or standard remuneration for these services also the incurred ancillary costs (travel expenses, transport costs, releases, etc.).
4. For orders less than Euro 250,- we charge a surcharge for small quantities in the amount of Euro 80,-. The supplier reserves the right to adjust surcharges for smaller amounts as appropriate.
5. The prices of the supplier for copper cables are based on a basic copper price of EUR 150/100 kg of copper, unless agreed otherwise when concluding the Agreement. Authoritative for the determination of the sales price is the DEL rating for copper on the day of order confirmation excluding procurement costs. The price on delivery is increased or reduced by the difference between the basic copper price and the DEL rating.
6. For products without metal price statement, the supplier is entitled, in the event of exceptional changes to raw materials prices, to adjust the sale price accordingly.

### IV. Payment

1. Unless agreed otherwise or stated on the invoice, claims are immediately due and the payment must be made without any discount 30 days after the date of invoicing at the latest.
2. If the receipt of an invoice is not clear, the purchaser will default 30 days from delivery of the goods at the latest.
3. 8 days after entry of the default, the supplier can withdraw from the agreement without further reason and demand compensation instead of the service.
4. If the purchaser defaults on payment, the supplier will be entitled to immediate demand payment for all claims resulting from the business relationship with the purchaser. Discount agreements, rebates, reductions, etc. will be deemed as expired in this case.
5. A right to retain or permission to balance will only be granted to the purchaser if and inasmuch the counterclaim is recognised in writing or legally ascertained.
6. If the suppliers learns of circumstances (repeated late payment, exchange or cheque complaints, compulsory execution, etc.) which make his claims seem endangered, his will be entitled to refuse deliveries or services incumbent on him, including from other agreements, or to provide them only subject to down payments or suitable securities (bank guarantees, etc.). If the purchaser does not comply with the respective demand within a suitable period of time, the supplier will be entitled to withdraw fully or in part from all agreements with the purchaser which are not completely fulfilled and demand compensation.
7. The place of execution for all payment claims of the supplier is his head office.

### V. Delivery and service

1. The risk will be transferred to the purchaser as soon as the supplier has handed over the goods to the freight forwarder or carrier or notified the purchaser of the readiness to dispatch.
2. The supplier's obligation to deliver is subject to timely and contractually supply by pre-suppliers.
3. Unforeseen business disruptions, lack of workforce, energy and raw materials, strikes, lock-outs, traffic and transport disruptions, official requirements and events of force majeure will release the affected party for the duration of the disruption and in the scope of its effect from the obligation to deliver or accept. If the disruption lasts longer than one month, every party will be entitled to

withdraw from the agreement as regards the supply share affected by the disruption under the exclusion of additional claims.

4. The supplier is entitled to provide partial deliveries.
5. We are entitled to hire third parties for the delivery or service provision.
6. A long-term delivery obligation beyond the duration of 3 years, resp. alternatively 2 years after the last order is rejected.

### VI. Term of delivery

1. Terms of delivery are binding for us and are stated by us to our best assessment and adhered to inasmuch possible. Compensation claims due to excusable non-fulfilment or overrunning of the agreed delivery term – also after expiry of an additional term – cannot be asserted.
2. For events of force majeure, mobilisation, unrest, war, legal lock-out, strike, lack of raw materials, accident, fire, water penetration which are unforeseeable or inevitable for us, the term of delivery will be extended by the duration of the interference plus any appropriate restart period. This applies accordingly if the above events occur with one of our suppliers.
3. Delays in delivery, which were demonstrably not caused or cannot be influenced by interconti Industrie GmbH do not lead to the circumstance of delay in delivery. In such a case customer and supplier will reach agreement on joint countermeasures (extension of delivery time, increased orders) to rectify the grievances.

### VII. Liability for defects (guarantee)

1. Delivered goods or services provided which have defects within the period of limitation – without considering the operating duration – whose cause already existed at the time of transfer of perils, we rectify at our discretion within an appropriate period free of charge or deliver or provide them again (supplementary performance). If the supplementary performance is unsuccessful, the buyer can withdraw from the agreement or reduce the remuneration. Replacement of unsuccessful efforts cannot be demanded by the buyer.
2. Defects must be immediately communicated to us in writing.
3. Claims from defects are limited to a period of 24 months, starting from the transfer for perils.
4. Payments may only be held back by the buyer for complaints due to defects in a scope which is appropriate to the defects occurred and on the condition that he asserts a defect claim the justification of which is not dubious. If defect complaints are made without justification, we will be entitled to demand compensation from the buyer for expenses incurred.
5. There are no defect claims for insignificant deviations from the agreed composition, for only insignificant impediment of the usability, for natural wear and tear or damages which occur after the transfer or perils due to erroneous or negligent handling, excessive use, unsuitable operating means, faulty construction works, unsuitable building surfaces or due to external influences which are not expected on the basis of the agreement as well as for non-reproducible software errors. If the buyer or third party makes improper modifications or performs improper repairs, there are similarly no defect claims arising from consequences arising thereof.
6. Inasmuch as the expenses required for the purposes of supplementary provision, in particular transport, travel, work, material costs increase because the goods delivered were subsequently brought to a different location than the place of delivery of the buyer, these costs must be borne by the buyer, unless the removal of the goods corresponds with the intended use.
7. Withdrawal claims from the buyer towards us exist only inasmuch as the buyer has not made any agreements in excess of the legal defect claims with his customer. Claims from the buyer for replacement for the purposes of supplementary provision in the relationship of expenses required to his customer are excluded inasmuch as they are increased by the fact that the supplementary provision is performed at a different place than the originally agreed one.
8. Further claims or claims other than those regulated in Item VIII. towards us and our vicarious agents due to defects are excluded irrespective of limited compensation claims in accordance with Item IX.

### VIII. Industrial property rights

1. The supplier is only liable that his service in the country of the intended destination is free from commercial property rights and copyrights of third parties.
2. If a third party asserts justified claims due to services provided by the supplier and used by the purchaser as per the agreement due to a breach of industrial property rights, the following will apply in addition to Items 7 and 9:
  - 2.1 The supplier must be given the opportunity to obtain a *licence* for the appropriate service within an acceptable period of time or to change the service so that the breach of the industrial property rights is cleared.
  - 2.2 The purchaser must immediately inform the supplier; he is not entitled to acknowledge claims from third parties and he must leave the defence to the supplier.
  - 2.3 If the purchaser ends the service due to a breach of the industrial property rights of the third party, he must inform the third party that this does not represent an acknowledgment of the legal position of the third party.
  - 2.4 Any liability of the supplier is excluded if the purchaser is responsible for a breach of industrial property rights, in particular, because he has modified, illegally used or taken the object of service to a place other than the intended one and without the approval of the supplier.

### IX. Liability for compensation

1. Compensation claims of the buyer, for what ever legal reason, in particular due to breach of duties from the relationship of obligation and from illegal actions are excluded.

This does not apply for liability in the event of intent or gross negligence, due to injury to life, body or health, due to assumption of a guarantee for the condition of the goods or service, due to malicious concealing of a defect or due to culpable breach of significant contractual obligations endangering the purpose of the agreement (cardinal obligations).

2. In the events of a culpable, but not intentional or grossly negligent breach of significant obligations (cardinal obligations), grossly negligent breach of obligations by our employees or contractors and the assumption of a guarantee by us, which is not expressly a guarantee for the condition of the goods or the service, the compensation is limited to the typical contractual, foreseeable damage. The claim of the buyer for compensation in accordance with Item IX.2. expires at the latest after two years from the time when the buyer learns about the damage, i.e. without this knowledge from the time of the damaging event.
3. This Item IX. also applies for compensation claims from the buyer towards our employees or contractors.

#### **X. Reservation of title**

1. Until all claims towards the buyer which we are entitled to from the business relationship are met, incl. any payment balance requests, any delivered goods will remain our property (goods subject to retention of title).
2. If goods provided are subject to retention of title, the buyer is prohibited from pawning or assigning them as security. Selling on is only granted to resellers in the normal course of business and on the condition that the reseller receives payment from his customer or includes the provision that the property is not transferred to the customer until he has fulfilled his payment obligations.
3. In the event of reselling, the buyer will already assign his purchase price demands in the amount of the purchase price calculated for the buyer when concluding the deal for safety purposes without requiring special explanation later.

If the goods subject to retention of title is sold on with other objects without an individual price being agreed for the goods subject to retention of title, the buyer will assign as a priority amongst the other demands the part of the overall price demands which corresponds to the price of the goods subject to retention of title stated in our invoice. If a justified interest is made plausible, the buyer must provide us with the information required to assert our rights towards the customer and hand over the necessary documents.

Until revoked, the buyer is entitled to collect the assigned demands from selling on. In the event of good cause, in particular default on payment or other reasons which suggest a risk to our payment demands, we will be entitled to revoke the buyer's entitlement to collect. Furthermore, we may disclose the assignment of securities after prior notification and subject to compliance with an appropriate period, use the assigned demands and demand disclosure of the assigned securities by the buyer towards the customer.

4. The buyer may process the goods subject to retention of title, modify them or mix and combine them with other objects. Processing, modification, mixing or combination (in one word: processing) is carried out on our behalf. The buyer keeps the new object with the care of a proper merchant. The new object is deemed to be goods subject to the retention of title. When processing with other objects not belonging to us, we are entitled to co-own the new object in the amount of the proportion resulting from the ratio of the value of the processed goods subject to retention of title to the value of the other processed goods at the time of processing. If the buyer acquires ownership of the new object himself, he will grant us co-ownership of the new object created through the processing in the ratio of the value of the processed goods subject to retention of title to the other processed goods at the time of processing. In the event of selling the new object, the buyer will assign his claim from the reselling towards the customer with all ancillary rights for safety purposes without requiring special further explanation. The assignment, however, will only apply in the amount which corresponds to the value of the processed goods subject to retention of title invoiced by us. The demand shares assigned to us must be satisfied as a priority. As regards the authorisation to collect and the precondition of its revoking Item XI.3. applies accordingly. If the buyer combines the goods subject to retention of title with properties or mobile objects, he will assign to us without requiring any special further explanation his demands which he is entitled to as compensation for the combination with all ancillary rights for safety purposes in the amount of the ratio of the value to the combined goods subject to retention of title to the other combined goods at the time of combination.
5. Pawning, confiscation, other remuneration or interferences of third parties must be immediately communicated to us.
6. If the buyer breaches his obligations, in particular in the event of default on payment, we will be entitled, after the expiry of an extended term set to the buyer to provide the service, to withdraw and take back, the buyer will be obligated to return. Any outstanding reduction remunerations will not apply.

#### **XI. Obligations of the agreement**

1. The exclusive jurisdiction is our head office for all indirect and direct disputes resulting from the contractual relationship.
2. German law applies for the contractual relationships. The United Nations Convention on Contracts for the International Sale of Goods will not apply.

#### **XII. Obligations of the agreement**

1. The agreement will remain binding even if individual items become legally ineffective.

#### **XIII. Delivery abroad**

1. Our deliveries abroad are made, unless agreed otherwise, against irrevocable, confirmed letter of credit. The payments must be made without any discount through irrevocable, confirmed letter of credit, opened on our behalf at one of our banks in EUR, payable in Germany.

2. Deliveries abroad are normally made "ex works". Apart from this, the regulations of the INCOTERMS 2010 will apply. All costs in connection with customs, taxes, inspection fees and any other expenses will be borne by the buyer.

**interconti Industrie GmbH**

**03/2012**