

# GENERAL TERMS OF PURCHASE OF THE AKKU VISION GMBH



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## 1 Application

1. Our terms and conditions of purchase apply exclusively. Differing terms and conditions of the suppliers shall not apply.
2. Acceptance of a supplier's offer with reference to its GTCs shall not be sufficient for this purpose. To accept the offer, a written order must be placed or an appropriately worded e-mail must be returned. An unconditional acceptance of deliveries does not replace the requirement of written consent.
3. Our packaging guidelines apply in addition to the general terms and conditions of purchase.

## 2 Offer; blanket order, conclusion of contract

1. Quotations are free of charge. Any discrepancies with our enquiry must be pointed out in writing and must be proven accordingly with documentation, such as a technical drawing, data sheet, etc.
2. Orders are placed in writing and are also effective without a handwritten signature. Unless otherwise agreed, our orders have to be confirmed in writing by the contractor within five working days after receipt of the order, stating the binding delivery time and the price. If this time limit is not fulfilled, the requested date on the order is considered to be the binding (fixed) delivery date.
3. The contractor must point out obvious errors (e.g. spelling and calculation errors) and incompleteness of the order including the order documents to us for the purpose of correction or completion before acceptance. In case of obvious errors, spelling mistakes or miscalculations in the order, we are not bound.
4. If the order confirmation contains deviations from the offer and/or our order, the order confirmation does not constitute a contract. An order confirmation deviating from our order only becomes effective if we confirm this in text form. If there is a permanent business relationship (framework agreement) and nothing else has been agreed, the order will become effective if the supplier does not disagree within five working days after receipt.
5. A price adjustment is only made if the forecast quantity is significantly exceeded or fallen short of (20%).
6. For scheduled blanket orders, we can change the call-off by +/-4 weeks.

## 3 Prices; terms of payment and delivery, limitation period

1. The price stated in the order is binding. Unless otherwise agreed in writing, the price includes delivery and packaging. The delivery takes place according to the Incoterms 2010 stated on the order of Akku Vision to the respective place of delivery stated by Akku Vision. Software and licence fees are included in the price, unless expressly agreed otherwise.
2. The return of the packaging requires a separate agreement. If the supplier is obliged to take back the packaging used in accordance with the Packaging Ordinance, he is responsible for the costs of the return transport and recycling.
3. Unless otherwise agreed in writing, we will pay the purchase price after complete receipt and inspection of the goods within 30 days with a 3% discount or net within 60 days after receipt of the invoice, if the delivery is complete and the agreed accompanying documents are available for Akku Vision in full.
4. If the invoice is received before the incoming goods inspection, the incoming goods inspection is relevant.
5. Claims for payment against us lapse within one year

## 4 Assignment, subcontractor, right of retention, set-off

6. The supplier is not entitled to assign his claims against us or to have them collected by third parties without the prior written consent of Akku Vision, which may not be unreasonably refused.
7. The supplier is not entitled to leave the fulfilment of its contractual obligations in whole or in part to a subcontractor without the prior written consent of Akku Vision. If Akku Vision has agreed to the awarding of subcontracts, copies of the subcontracts have to be submitted by the supplier immediately after issuance upon request. The liability of the supplier for the fulfilment of his contractual obligations by the subcontractor remains unaffected by this. The Supplier has to subject the subcontractor to the same contractual conditions, in particular with regard to secrecy and property rights, that apply to him.
8. The supplier may only assert a right of set-off and/or retention on the basis of counterclaims that have been legally established or are undisputed.

## 5 Delivery dates; due date, delay, compensation, transfer of risk

1. The supplier has to provide the service on the contractually agreed delivery dates. The goods must have arrived at the respective specified delivery point on the agreed delivery dates.
2. If the time of performance is determined according to the calendar, delay will occur if the delivery date is missed. If the performance is not determined according to the calendar and the performance is not made in due time, delay occurs after 10 days at the latest.
3. If the supplier is in delay after the confirmed delivery date, he will take over the costs for express shipment (express or express goods, air freight instead of sea freight, etc.) at the first request of Akku Vision.
4. In case of delay of the supplier and after unsuccessful expiry of a reasonable grace period, Akku Vision can withdraw from the contract and claim damages. The setting of a grace period is not required if the delivery date is agreed to be „fixed“ by expressing in the respective order that the interest in performance is dependent on timely delivery, or if the supplier declares that he cannot deliver even within the grace period. In case of urgency, a grace period of two working days is sufficient.
5. If the supplier is guilty of default, Akku Vision can, in addition to further legal claims, demand flat-rate compensation for the damage caused by default in the amount of 0.3% of the net price per working day, but in total no more than 5% of the net price of the order total incurred up to the time of default.
6. If the supplier is in delay, Akku Vision is entitled to make covering purchases in order to avert threatening consequential damages of the delay. Additional costs arising from this have to be carried by the supplier causing the delay. The supplier is obliged to take over all damages resulting from his delay.
7. Akku Vision is entitled to claim a lump sum compensation in the amount of the order value of the respective goods in delay instead of the actual consequential damages due to covering purchases and/or delivery failures according to clause 6. Akku Vision reserves the right to prove a higher damage. The supplier reserves the right to prove a lower damage.
8. An early delivery or service that takes place without express prior consent does not have to be accepted by Akku Vision and does not oblige Akku Vision to make earlier payment. The supplier bears the risk for destruction or damage of the goods that were delivered before the fixed delivery date.
9. The supplier is obligated to immediately notify Akku Vision in writing of any delivery delays and the reasons for them. The supplier is liable for all damages resulting from an omitted or delayed notification. Irrespective of this, the supplier must also compensate for all damages resulting from a delay in delivery for which he is responsible.
10. The risk is only transferred to Akku Vision at the receiving point with the incoming goods inspection by Akku Vision.
11. Acceptance of a delayed delivery is not considered a waiver of claims for compensation.

## 6 Requirements for the delivery item; documentation; REACH & Rohs

1. The supplier is obligated to submit the completed supplier self-disclosure form to Akku Vision prior to the first submission of a quote.
2. The supplier is obliged to state the exact Akku Vision order number and Akku Vision article number on all documents, shipping documents and delivery notes. Separate documents are required for each order. The supplier is responsible for any damages resulting from non-compliance.
3. The supplier is obliged to submit a written declaration on the customs origin of the goods including the customs tariff number for all delivered goods. This declaration has to be sent to Akku Vision upon delivery.
4. The delivery item is to be executed in a customary manner in accordance with the written order of Akku Vision, the relevant European standards in the respective valid version.
5. The supplier warrants that the delivery item has the warranted characteristics, complies with the respective recognised rules of technology, has all the test marks and approvals required for its use or operation and is not afflicted with defects that cancel, prevent or reduce the value or suitability for the intended use. Insofar as an EC declaration of conformity with CE marking, EC manufacturer's declaration or certification is required for the manufacture or operation of the delivery item, e.g. type examination (GS), the supplier undertakes to hand over the associated documentation. He is responsible for all costs associated with these approvals.
6. The supplier undertakes to comply with the REACH Regulation (Regulation EC No. 1907/2006) with regard to the goods delivered to Akku Vision including packaging. In particular, he assures that the delivered goods/products and their packaging do not contain any substances of the respective current candidate list according to Art. 53 Para. 1 of the regulation in a quantity exceeding 0.1 % by mass (SVHC substances). The supplier is obliged to (pre-)register all substances delivered to Akku Vision himself or by sub-suppliers, if he is subject to registration obligations according to REACH. If the supplier himself is not obliged to register according to the REACH regulation, he obliges his sub-suppliers to comply with their obligations according to REACH. Upon request, Akku Vision shall be provided with written evidence of a registration carried out by the supplier or its pre-suppliers regarding the delivered goods.
7. The supplier shall ensure that, if substances covered by REACH are contained in goods/products delivered by him or their packaging, these are registered in accordance with REACH. He commits himself to transmit all information and documentation required due to the regulation (in particular according to art. 31 ff. of the REACH regulation) to Akku Vision within the periods provided for in REACH or to forward the information of his pre-supplier to Akku Vision without delay.
8. If Akku Vision is taken into recourse by customers, competitors or authorities due to a violation of the REACH regulations, which can be traced back to a product of the supplier, then Akku Vision is entitled to demand from the supplier the release from these claims or the compensation of the damage, which was caused by the non-existing REACH conformity.
9. The above obligations apply accordingly (with the exception of the registration obligations) if the supplier is based in a non-EU country. In particular, he must inform if a SVHC substance greater than 0.1 % is contained or substances covered by REACH may be released during normal and foreseeable use.
10. The Supplier shall fully comply with the environmental requirements under German and European law, including the EU Directive 2011/65/EC „Restriction of the use of certain hazardous substances in electrical and electronic equipment“ and the Electrical and Electronic Equipment Act.
11. Electrical and electronic equipment of each equipment category as well as components for these must comply with the substance prohibitions of the EU Directive 2011/65/EC and the laws, regulations, decisions and other provisions issued for its implementation. The supplier must provide a written declaration of conformity for this purpose. These devices must bear a CE mark and the symbol according to Annex IV of the EU Directive 2002/96/EC (WEEE).

12. The Supplier warrants that all Products comply with the requirements of the RoHS Directive as set out in Clauses 10 and 11 above. The Supplier has to compensate all damages and expenses (including costs of legal action) and for all claims of third parties based on a violation of the RoHS Directive or other applicable environmental regulations for which the Supplier is responsible.

#### **7 Examination of defects; warranty, limitation period**

1. The supplier warrants that the goods delivered by him comply with the specification, are of the quality customary in the market and are otherwise free from defects. If the supplier is responsible for the construction, he additionally guarantees that the construction is free of defects and that the delivered goods are suitable for the specific purpose for which they were purchased.
2. The obligation to examine and give notice of defects according to § 377 HGB (German Commercial Code) is excluded for hidden defects, as far as Akku Vision has carried out a minimum inspection on the basis of the delivery note and for possible transport damages.
3. Akku Vision fulfils the obligation to give notice of defects according to § 377 HGB (German Commercial Code), as far as the notice of defects is given within a period of 2 weeks after discovery.
4. If Akku Vision returns defective goods to the supplier, Akku Vision is entitled to charge the supplier the invoice amount plus a one-time processing fee of € 125. The proof of higher expenses remains reserved. The supplier reserves the right to prove lower or no expenses.
5. Defective deliveries are to be replaced immediately with defect-free deliveries and defective services are to be repeated without defects. Akku Vision is entitled, after prior information and expiry of a short grace period appropriate to the situation, to remedy the defects itself or to arrange for a replacement delivery at the expense of the supplier, if there is danger in delay or special urgency. This also applies if the delivery is defective or delayed or if the supplier performs defective or delayed and Akku Vision has to act immediately in order to avoid its own delay in delivery.
6. If the goods are already in the production process of Akku Vision or the customer and if it is not reasonable for Akku Vision to have the defect removal carried out by the supplier for operational, in particular production-technical reasons, or if the supplier is not in a position to do so, Akku Vision can have the goods replaced or repaired at the expense and risk of the supplier itself or by third parties.
7. The warranty period is 36 months, calculated from the installation date to be proven by us. For defects notified by us within the warranty period, our claims shall become statute-barred at the earliest 6 months after the notification of the defect.

#### **8 Force majeure; case of insolvency**

1. Force majeure, industrial disputes, riots, official measures or other unforeseeable, unavoidable and serious events release the supplier from its performance obligations for the duration of the disruption and to the extent thereof. The supplier is obliged to inform us immediately of the occurrence of the force majeure. If the force majeure lasts longer than 14 days, we are entitled to withdraw from the contract in whole or in part without compensation.
2. If the supplier discontinues his deliveries or if the opening of insolvency proceedings against his assets is applied for or rejected for lack of assets or if insolvency proceedings are opened, we are entitled to withdraw from our order for the scope of delivery not yet fulfilled at that time.

#### **9 Product liability; indemnification; liability insurance cover**

1. The supplier guarantees that his products are free of defects in the sense of the product liability law. The supplier will fully indemnify and hold Akku Vision harmless for all claims that are based on a defectiveness or faultiness of the delivered product.
2. As far as the supplier is responsible for a product damage, he is obliged to indemnify Akku Vision insofar from claims for damages of third parties on first demand, as the cause is located in his area of control and organisation. The supplier's subcontractors are considered his vicarious agents in the sense of § 278 BGB.
3. Within this framework, the supplier is also obligated to reimburse Akku Vision for any expenses according to §§ 683, 670 BGB, which result from or in connection with a recall action carried out by us. Akku Vision will immediately inform the supplier about the content and scope of the recall measures to be carried out - as far as possible and reasonable - and give him the opportunity to comment. The supplier is also obliged to reimburse the costs of the necessary legal action.
4. The supplier undertakes to maintain product liability insurance with a sum insured of € 100 million per personal injury/property damage, lump sum, proof of which must be provided on request.
5. Further claims for damages remain unaffected.

#### **10 Rights, exclusivity, tools, contractual penalty**

1. Akku Vision reserves all property rights and copyrights to illustrations, drawings, sketches, calculations, technical data, specifications, system requirements, supplier lists, customer lists and other documents. They may not be made accessible to third parties without our express written consent and are to be treated carefully by the supplier. All rights, with the exception of the order-related rights of joint use, are the sole property of Akku Vision. They are to be used exclusively for the production of our order.
2. Products manufactured with the help of the documents referred to in Clause 1 or on the basis of our specification and/or using our know-how or manufactured specifically for us may not be sold to third parties without our written consent.
3. Tools that are made available to the supplier for production or are manufactured by the supplier on behalf of Akku Vision remain the property of Akku Vision. They are to be clearly marked by the supplier at his production site as the property of Akku Vision. They may only be used for the production of Akku Vision products.
4. The materials referred to in paragraphs 1 and 3 have to be returned to us unsolicited after settlement. They must be kept secret from third parties. For the rest, reference is made to clause 10.
5. If the supplier culpably violates the obligations from paragraphs 1 to 3, the supplier shall pay us a contractual penalty in an appropriate amount to be determined at our reasonable discretion within the meaning of Section 315 of the German Civil Code (BGB), the appropriateness of

which shall be reviewed by the competent court in the event of a dispute. The right to claim further damages is reserved. Any contractual penalty incurred shall be set off against any damages.

## **11 Protective rights**

1. The supplier is responsible for ensuring that his services do not violate third-party patents and other property rights. He is obliged to indemnify Akku Vision from any claims of third parties due to the infringement of these rights and to hold Akku Vision harmless in any other way. If licence fees are to be paid in connection with his services, he bears these. The supplier is obligated to reimburse Akku Vision for the costs of necessary legal prosecution and defence against damages.
2. If industrial property rights of the supplier are required for the use of the goods by Akku Vision, the supplier grants us as the buyer the worldwide, irrevocable and free of charge right to use, repair or otherwise use or resell the goods ourselves or through third parties at our own discretion. In the case that the supplier does not deliver, for whatever reason, the supplier also grants Akku Vision the right to rebuild the goods itself or through a third party. If the supplier is responsible for the non-delivery, the granting of the right takes place free of charge, otherwise against an appropriate fee.
3. As far as the supplier commits to the delivery of software, the supplier has to ensure that Akku Vision is granted the necessary licences for the use of the software. Unless otherwise agreed, the licence is valid including the use of subsequent newer versions and for a use on any number of computers used internally by Akku Vision (central unit / peripheral devices).
4. If a delivery contract contains development work, Akku Vision acquires ownership of all development results. The costs for this are included in the product price. The supplier also grants Akku Vision the irrevocable, non-exclusive, free of charge, worldwide licence, with the right to grant sub-licences, to all property rights on which the development results are based or which Akku Vision requires for the direct or indirect use of the development results.

## **12 Confidentiality**

1. The supplier undertakes to treat all documents made available to him, e.g. templates, samples, models, drawings, etc., as strictly confidential and not to make them available to any third party or to exploit them himself. The obligation begins as of the first knowledge and lasts for 36 months after the end of the business relationship. The obligation does not apply if the information is publicly known or generally accessible or if it can be proven that the third party was already aware of it. Furthermore, if a party was obliged to disclose on the basis of statutory provisions or by virtue of an official administrative act.

## **13 Written form, severability clause**

1. Modifications or additions to this contract must be made in writing. This also applies to modifications of this written form clause.
2. Should individual parts of these terms and conditions be or become invalid, this shall not affect the validity of the remaining provisions. Invalid provisions are replaced by provisions that come closest to the economic intention according to reasonable discretion.

## **14 Place of jurisdiction; place of performance, applicable law**

1. If the supplier is a merchant, the district court of Aschaffenburg is the place of jurisdiction.
2. Unless otherwise stated in the order, the registered office of Akku Vision is the place of performance.
3. German law is exclusively applicable to all relationships between the supplier and Akku Vision. The application of the provisions of the UN Convention on the International Sale of Goods and German international private law is excluded.