AMA Verband für Sensorik und Messtechnik e.V. Terms and Conditions of Supply of sensors and measurement instrumentation

(Non-binding recommendation for terms and conditions provided by AMA Verband für Sensorik und Messtechnik e.V.
AMA members are free to use the recommendation).

As amended on 23 January 2024

1. SCOPE OF APPLICATION

1.1 Unless expressly agreed otherwise, the following Terms and Conditions of Supply ("Terms and Conditions") shall apply to business transactions with entrepreneurs. For the purposes of an ongoing business relationship, these Terms and Conditions shall also apply without an express reference by the user ("Supplier") being required in each individual case.

1.2 Precious metal sales, repairs and installations are subject to special terms and conditions.

1.3 Supplier hereby expressly rejects any and all terms and conditions of business of the contractual partner ("Customer").

2. OFFERS, DOCUMENTS AND INDUSTRIAL PROPERTY RIGHTS

2.1 Unless expressly designated as binding, Supplier's offers for contract conclusion contained in sales documents, catalogues or on the Internet are always without engagement and are only to be understood as an invitation to Customer to submit an offer for contract conclusion.

2.2 Unless expressly designated as binding in Supplier's offer documents, the approximate values customary in the industry shall apply to all technical data, material specifications, etc. If Supplier makes changes to the production method or product

which have no influence on compliance with the approximate values customary in the industry, Supplier shall only inform Customer of the changes if any assumed express warranty of quality (*Beschaffenheitsgarantie*) is affected.

2.3 All documents made available to Customer by Supplier shall remain the property of Supplier; they must not be made accessible to third parties without the prior written consent of Supplier and, if no purchase order is placed with Supplier, must be returned to Supplier in complete form, including any copies made thereof, immediately (*unverzüglich*) upon Supplier's request.

2.4 Product information contained in catalogues, brochures and other written documents or on the Internet must be checked by Customer for suitability of the product for the intended use before acceptance and use of the product. This also applies to the selection of suitable materials. Customer itself is responsible for obtaining information about the possible use of the product.

2.5 Supplier is not obliged to check Customer's specifications and/or requirements for correctness and/or legal conformity (in particular with regard to infringements of industrial property rights); this is the sole responsibility of Customer.

2.6 Customer shall indemnify Supplier against any and all claims of third parties arising from infringements of industrial property rights resulting from the fact that Customer or a person commissioned by Customer further processes Supplier's products, drawings or samples or uses them in a way that infringes industrial property rights of third parties. If such further processing or use of the products, drawings or samples leads to a legal dispute for alleged or actual infringement of industrial property rights, Customer shall reimburse Supplier for all expenses incurred by Supplier in connection with the legal dispute.

2.7 Warranties or assurances given by, or collateral agreements with, employees of Supplier always require written confirmation by Supplier to be effective if they go beyond what is agreed in the written contract. Sentence 1 shall not apply to oral agreements, warranties or assurances made by Supplier or a person authorised to represent Supplier or made by persons who are deemed to be authorised representatives, such as under Section 56 of the German Commercial Code (Handelsgesetzbuch – HGB) or by virtue of wilful acquiescence by the person represented (*Duldungsvollmacht*) or by way of apparent but negligently unobjected acting in the name of the person represented (*Anscheinsvollmacht*).

2.8 Samples of a product requested by Customer shall be paid for appropriately.

2.9 If software is included in the scope of supply of a product, Customer shall be granted a non-exclusive right to use the software supplied, including its documentation. Customer shall be entitled to transfer the licence to third parties. Customer is not allowed to grant sub-licences. Reproduction of the software is prohibited unless it is a backup copy.

2.10 All other rights in and to the software and the documentation, including the backup copy, remain with Supplier or the software supplier. The right of resale is not subject to restrictions.

3. PURCHASE ORDERS

Purchase orders shall be deemed accepted if Supplier has confirmed them in writing or has executed them immediately (*unverzüglich*) after receipt of the purchase order.

4. DELIVERY TIME AND SCOPE

4.1 Delivery times run from contract conclusion and end upon dispatch or notification of readiness for dispatch. In the case of annual or call-off purchase orders which provide for a specific quantity, each call-off shall be executed within a delivery time of 4 weeks, unless a different delivery time has been expressly agreed.

4.2 Any changes requested by Customer shall cause the delivery time to recommence from the date of Supplier's adjusted order confirmation.

4.3 Delivery times shall be extended appropriately in the event of force majeure and similar events not attributable to Supplier (*nicht zu vertreten haben*) or unforeseeable by Supplier, such as the refusal of official permits or approvals, operational disruptions, labour disputes, disruption of transport routes, delays in supplies from sub-suppliers through no fault of Supplier, etc., if and to the extent that such obstacles can be proven to have a significant influence on the supply. Sentence 1 shall not apply if Supplier is already in default with the delivery of the product.

4.4 These provisions do not imply or involve any changes to the burden of proof to the detriment of Customer.

4.5 Customer's right to withdraw from the contract after the fruitless expiry of a reasonable deadline set for Supplier remains unaffected.

4.6 Partial deliveries are permissible if and to the extent that they are reasonable for Customer.

4.7 In the case of annual or call-off purchase orders which provide for a specific quantity, Customer is obliged to accept the total quantity within the agreed period; if no period is agreed, the agreed quantity must be called off within one year of conclusion of the contract.

5. PLACE OF DELIVERY, PASSING OF RISK

5.1 Delivery without installation or assembly of the product shall be ex works or ex warehouse of Supplier at Customer's expense and risk. The mode of shipment shall be selected by Supplier at its reasonable discretion, unless Customer specifies otherwise. At Customer's request, Supplier shall insure the consignment against breakage, damage in transport and by fire at Customer's expense.

5.2 In the case of delivery without installation or assembly, the risk in respect of the product, even if carriage paid delivery has been agreed, shall pass to Customer when the product is handed over to Customer, the forwarding agent or carrier, but at the latest when the product leaves Supplier's works or warehouse.

5.3 If delivery without installation or assembly is delayed at the request or through the fault of Customer, the product shall be stored at Customer's expense and risk. In this case, notification of readiness for dispatch shall be deemed equivalent to delivery and shall have the same consequences. The risk passes to Customer from the point in time when Customer is in default of acceptance.

5.4 In the case of delivery with installation or assembly of the product, the risk in respect of the product shall pass to Customer on the day of acceptance (*Abnahme*), but at the latest on the day on which the product is taken over for Supplier's own operations. Acceptance (*Abnahme*) shall be deemed to have taken place if Supplier has set a reasonable deadline for acceptance (usually 14 days) and Customer has not denied acceptance within this deadline by stating at least one defect. Clause 5.3 shall apply accordingly.

6. PRICES

6.1 All prices are ex works plus freight/postage, packaging, insurance and VAT at the applicable statutory rate. Costs for commissioning, installation, assembly, adjustment or similar services will be invoiced separately.

6.2 Supplier shall be entitled to increase the price of the product if there are more than 4 weeks between the time of contract conclusion and the agreed delivery date and the production costs for the product have increased in the time between contract conclusion and delivery due to circumstances not attributable to Supplier (*nicht zu vertreten haben*), in particular due to an increase in the prices of sub-supplier parts. If Supplier increases the price in this case, the price increase must not exceed the increase in production costs. Supplier shall provide Customer with proof of the increase in production costs upon request.

7. PAYMENT

7.1 Unless otherwise agreed, the agreed price shall be payable in euros within 30 days of the due date and receipt (*Zugang*) of the invoice or equivalent request for payment, without deduction and free of charges. The risk and costs of the payment transaction shall be borne by Customer. Cheques or bills of exchange shall only be accepted with the express prior written consent of Supplier and only as an additional obligation assumed on account of discharge (*erfüllungshalber*) but not in lieu of the initially agreed payment obligation.

7.2 Customer shall only have a right of retention or set-off if Customer's counterclaim is undisputed or has become *res judicata*.

7.3 Costs for security deposits, letters of credit for foreign transactions, etc. shall be borne by Customer.

8. LIABILITY FOR DEFECTS OF QUALITY

8.1 Customer shall inspect the products for defects immediately (*unverzüglich*) upon receipt. Obvious defects must be reported to Supplier in writing immediately (*unverzüglich*) upon receipt, defects recognisable in an initial inspection must be reported within 12 working days of receipt and hidden defects immediately (*unverzüglich*) upon detection.

8.2 If a defect is reported in due time, Supplier shall provide subsequent fulfilment (*Nacherfüllung*) within a period reasonable with regard to the technical complexity of the product – if necessary several times – and Customer shall grant Supplier the opportunity to do so. Supplier shall be entitled to determine the mode of subsequent fulfilment (subsequent delivery of a defect-free product (*Nachlieferung*) or rectification of the defect (*Nachbesserung*)), taking into account the interests of Customer.

8.3 If the subsequent fulfilment fails, Customer shall be entitled at its discretion to withdraw from the contract or claim a reduction of the price (*Minderung*), which shall be without prejudice to claims to damages to which Customer may be entitled.

8.4 In the case of defects which were detected by Customer before the installation, assembly or processing of the product or could have been detected by Customer using reasonable efforts at that stage, all claims of Customer for defects of quality shall lapse once the product has been installed, assembled or processed. This shall not apply if Supplier, its executive employees, vicarious agents or other persons engaged by Supplier in the performance of its obligations (*Erfüllungsgehilfen*) are liable for intentional or grossly negligent misconduct or for an injury to life or limb or health, for breach of an essential contractual duty (*wesentliche Vertragspflicht*) within the meaning of clause 9.1 below or if liability is mandatory under the German Product Liability Act (Produkthaftungsgesetz).

8.5 Supplier does not assume any warranty for a specific service life of the products, in

particular if they are used under difficult and previously unknown operating conditions. Claims in the event of early malfunction of the delivered product are excluded if they are based on the difficult or previously unknown operating conditions.

8.6 In the case of products which have been manufactured according to drawings or specifications of Customer, Supplier only warrants that the product is manufactured in accordance with Customer's specifications and Supplier's liability shall be limited to defects of quality resulting from non-compliance with these specifications. Mandatory liability under the German Product Liability Act (Produkthaftungsgesetz), for intentional or grossly negligent misconduct, for an injury to life or limb or health or for breach of an essential contractual duty remains unaffected.

8.7 Liability for defects of quality that do not or only insignificantly impair the value or usability of the product is also excluded.

8.8 Claims for defects of quality become time-barred upon expiry of 12 months of commissioning of the product, but no later than 15 months after the passing of risk. Sentence 1 shall not apply if, due to a defect of quality, damages are claimed for intentional or grossly negligent breach of duty by Supplier or a vicarious agent or other person engaged by Supplier in the performance of its obligations (*Erfüllungsgehilfen*) or for an injury to life or limb or health. Sentence 1 also does not apply if Section 438 (1) No. 2 or Section 634a (1) No. 2 of the German Civil Code (Bürgerliches Gesetzbuch – BGB) prescribes longer limitation periods.

8.9 Recourse claims under Sections 478, 479 of the German Civil Code (BGB) only exist if the claim asserted by the consumer was justified and only to the extent provided for by law, but not for goodwill arrangements not approved by Supplier. In addition, recourse claims are subject to the condition that the party entitled to recourse has complied with its own obligations, including, but not limited to its obligation to duly report any defects.

9. GENERAL LIMITATION OF LIABILITY

9.1 Supplier is liable in accordance with the statutory provisions if Customer asserts claims to damages based on an intentional or grossly negligent misconduct by Supplier or its executive employees, its vicarious agents or other persons engaged by Supplier in the performance of its obligations (*Erfüllungsgehilfen*). In addition, Supplier is liable in accordance with the statutory provisions for the fulfilment of essential contractual duties. Essential contractual duties shall be those whose fulfilment is indispensable for the proper execution of the contract and on compliance with which the contractual partner usually relies and is reasonably allowed to rely. If Supplier, its executive employees, vicarious agents or other persons engaged by Supplier in the performance of its obligations (*Erfüllungsgehilfen*) are not liable for intentional or

grossly negligent misconduct, the liability for damages shall be limited to the foreseeable damage typically occurring in contracts of this type.

9.2 Liability for intentional or negligent injury to life or limb or health remains unaffected by clause 9.1 above. Liability under the German Product Liability Act (Produkthaftungsgesetz) remains unaffected by clause 9.1, too.

9.3 Claims to damages, regardless of the legal basis, which go beyond the claims to damages referred to in clauses 9.1 and 9.2 above, are excluded. This shall also apply if Customer claims compensation for futile expenses instead of damages in lieu of performance (*Schadensersatz statt der Leistung*).

9.4 If Customer provides material for the manufacture of products ordered by it, such material shall only be insured by Supplier against theft. Liability for destruction, loss or deterioration of the material shall only arise in the event of intentional or grossly negligent misconduct on the part of Supplier.

9.5 The statutory regulations on the burden of proof remain unaffected.

10. RESERVATION OF TITLE

10.1 The product is delivered subject to reservation of title (hereinafter referred to as "reserved-title product"); it remains the property of Supplier until full payment of all due claims which Supplier is entitled to or will acquire in the future under a business relationship with Customer, including under contracts concluded at the same time or later.

10.2 If the reserved-title product is processed by Customer into a new movable item, the processing shall be deemed carried out for Supplier without any obligations arising therefrom for Supplier. The new item shall become the property of Supplier. If the reserved-title product is processed together with products not belonging to Supplier, Supplier shall acquire co-ownership of the new item according to the proportion of the invoice value of the reserved-title product to the values of the other products at the time of processing as well as the processing value. If the reserved-title product is combined, mixed or blended with products not belonging to Supplier as provided for by Sections 947, 948 of the German Civil Code (BGB), Supplier shall become co-owner in accordance with the statutory provisions. In case Customer acquires sole ownership by combining, mixing or blending, Customer hereby assigns co-ownership to Supplier according to the proportion of the value of the reserved-title product to the values of the other products at the time of combining, mixing or blending. The new item owned or co-owned by Supplier shall be deemed a reserved-title product within the meaning of these Terms and Conditions. Customer shall keep and store the reserved-title product for Supplier free of charge, using the due care of a prudent businessman (*Sorgfalt eines ordentlichen Kaufmanns*).

10.3 Customer hereby assigns to Supplier any and all claims from a resale of the reserved-title product in the amount of the value of the reserved-title product, regardless of whether the product is resold alone or together with products not belonging to Supplier. Supplier hereby accepts the assignment. If the resold reserved-title product is co-owned by Supplier, the assignment of the claims shall extend to the amount corresponding to the value of Supplier's co-ownership share.

10.4 Customer assigns to Supplier any and all assignable claims against a third party arising from the integration of the reserved-title product as an integral part (*wesentlicher Bestandteil*) into a land property, ship, ship under construction or aircraft in the amount of the value of the reserved-title product. Supplier hereby accepts the assignment. Clause 10.3 sentence 3 shall apply accordingly.

10.5 Customer shall only be entitled and authorised to further process, integrate, use or resell the reserved-title product in the ordinary course of business and subject to the proviso that the claims under clauses 10.3 and 10.4 are actually transferred to Supplier. Any other disposal of the reserved-title product, in particular by way of pledging or transfer of title by way of security, shall require Supplier's consent.

10.6 Customer is revocably authorised to collect the claims assigned to Supplier under clauses 10.3 to 10.5 in the ordinary course of business. Supplier shall not make use of its own authority to collect as long as Customer fulfils its payment obligations, including to third parties. At the request of Supplier, Customer shall name the debtors of the assigned claims and notify them of the assignment. Supplier is entitled to notify the debtors of the assignment itself. In case of doubt, the enforcement of the reservation of title and in particular the demand for surrender shall be deemed to constitute withdrawal from the contract.

10.7 Customer shall immediately (*unverzüglich*) notify Supplier of any execution measures by third parties affecting the reserved-title product or the assigned claims, handing over the documents required by Supplier to object to such measures.

10.8 Supplier agrees to release the securities to which it is entitled at Customer's request to the extent that the realisable value of the securities exceeds the claims to be secured by more than 10%; Supplier may select the specific securities to be released in its sole discretion.

11. PLACE OF JURISDICTION

11.1 The law of the Federal Republic of Germany shall apply exclusively, subject to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).

11.2 If Customer is a merchant (*Kaufmann*), a legal entity under public law or a special fund under public law (*öffentlich-rechtliches Sondervermögen*), the place of

jurisdiction for both parties, including for disputes to be decided in special summary proceedings based exclusively on documentary evidence (*Urkundenprozess*) or special proceedings for the assertion of claims arising from bills of exchange (*Wechselprozess*) or cheques (*Scheckprozess*), shall be Supplier's registered office or place of residence. Supplier shall also be entitled to sue Customer at any other place of jurisdiction provided for by law.