

General Terms and Conditions of Purchase

Valid from: May 2013

1. General – scope of application

1.1 These General Terms and Conditions of Purchase (hereinafter referred to as Terms and Conditions of Purchase) of Hottinger Baldwin Messtechnik GmbH (hereinafter referred to as HBM or we) shall apply exclusively. We will not acknowledge any contractor's terms and conditions, even if they relate to subject matters that are not regulated by our Terms and Conditions of Purchase, unless we have expressly agreed to their application in writing. If and to the extent to which any contractor's terms and conditions contain provisions on matters that are not regulated by our Terms and Conditions of Purchase, only the relevant statutory provisions shall apply. Our Terms and Conditions of Purchase apply, even if we accept deliveries without reservation, while being aware of a contractor's terms and conditions, which conflict with or deviate from our Terms.

1.2 Any agreements reached between us and the contractor concerning the performance of a contract must be set down in writing in the contract in order to be of legal effect. Modifications and supplements to the contract must be made in writing. This shall also apply to the waiver of the written form requirement. If and when a legally binding statement is made in electronic form, then the requirement of written form shall be deemed to be observed, if the statement allows the receiver to identify its author.

1.3 Our Terms and Conditions of Purchase shall only apply to companies, legal persons under public law or public-law special estates in terms of § 310 Subsection 1 BGB (Subsection 1 of Section 310 of the German Civil Law Code).

1.4 Our Terms and Conditions of Purchase will also govern all future transactions with the customer within the scope of an ongoing business relationship.

1.5 The HBM Quality and Environment Management Guideline for Suppliers shall be an integral part of the contract and basis for order implementation.

2. Contract conclusion and contract amendments

2.1 If our purchase orders do not contain an express deadline for acceptance, we shall be bound to such orders for one week from the order date. The acceptance of such orders shall be considered on time if we receive a written acceptance within the aforementioned one week period.

2.2 Any verbal agreements made after conclusion of the contract and ancillary agreements of any kind shall be confirmed in writing to be effective.

3. Prices and terms of payment, invoices

3.1 The prices stipulated in our purchase orders shall be binding. Unless otherwise agreed upon in writing the prices shall include delivery pursuant to Section 4. The prices do not include VAT.

3.2 Separate invoices shall be issued for each purchase order/delivery. The invoices shall indicate the HBM order number and be directed to the address of HBM, unless a different invoice address has been specified in the purchase order. The contractor shall be responsible for any consequences of his failure to fulfil this obligation. Duplicate invoices must be marked as such. The contractor shall ensure that its invoices will be issued in accordance with the relevant value-added tax regulations.

3.3 Payments shall be made according to the conditions specified in the purchase order, after receipt of the proper invoices and receipt of all ordered goods, provided that the goods are without defects. Payment periods shall commence at this point in time. Payments shall not be deemed as acknowledgment of prices and conditions, or contract conformity of the delivered goods. Payments may be withheld to a reasonable extent until the contract is adequately accomplished in full. Invoices shall generally be paid 20 days after delivery and receipt of the invoice with a 3% discount on the gross in-

voice amount or after 60 days without any deductions. Discount deduction shall also be permitted if HBM offsets its justified counterclaims against the contractor's claim within 14 days.

3.4 HBM shall be entitled to exercise the statutory set-off and retention rights.

4. Delivery, packaging and transfer of risk

4.1 Unless otherwise agreed in writing deliveries shall be DDP agreed place of delivery (Incoterms 2010). The agreed place of delivery shall be the place of delivery indicated in the purchase order, alternatively, the place of business of the Purchasing Department. Partial deliveries shall only be permissible with HBM's consent.

4.2 In the case of delivery including installation or assembly and in the case of the provision of services, the risk shall pass to us upon acceptance of the delivery and installation or assembly, or respectively of the services provided. In the case of delivery not including installation or assembly, the risk shall pass to us upon receipt of the delivery at the agreed place of delivery. Even if the purchase contract provides for delivery by carrier the risk shall not pass to us until receipt of the deliveries at the agreed place of delivery.

4.3 Each delivery shall be accompanied by packing slips and delivery notes indicating the item numbers, quantities, and the respective HBM order numbers.

4.4 At HBM's request, the contractor shall take back packaging from the place of delivery at its own expense.

5. Delivery date, delay in delivery, spare parts supply

5.1 The agreed dates and deadlines for delivery shall be binding. Early delivery is not permissible. In case of delivery/performance ahead of schedule, HBM may, at its option, put the delivered goods in storage until the delivery date at the contractor's risk and expense, instead of rejecting them.

5.2 The contractor is obliged to immediately inform HBM in writing of any anticipated delay in delivery. The aforementioned shall not influence the occurrence of a default in delivery. The contractor shall take into consideration delivery dates when he chooses the means of transportation and bear any additional expenses arising therefrom.

5.3 Strikes, lockouts, plant disruptions that the contractor is responsible for, as well as delivery delays of the contractor's subcontractors, shall under no circumstances be considered force majeure preventing the occurrence of default of delivery/performance on the part of the contractor.

5.4 If the contractor defaults on its duty to perform, HBM may demand liquidated damages amounting to 0.5% for each calendar week of default that has commenced, up to a maximum of 5% of the respective order value. HBM reserves the right to claim additional damages. Liquidated damages paid shall be credited against damages caused by delay.

5.5 The contractor guarantees the supply of spare parts at reasonable conditions for at least 3 years after delivery/performance. If the contractor discontinues production of the spare parts, he shall give HBM the opportunity to make a last-time buy. If the contractor does not meet this obligation, he shall compensate the damage resulting to HBM therefrom.

6. Defects inspection, warranty

6.1 Deliveries shall be examined by HBM for deviations in quality or quantity within a reasonable period of time. A complaint shall be deemed to be made in due time if it is received by the contractor within 10 working days after receipt of the goods, or respectively, in the case of hidden defects, within 10 working days after discovery of the defect. Complaints are not subject to any requirement of form.

6.2 Unless otherwise stipulated hereinafter, the contractor shall warrant against defects in accordance with the applicable statutory legal provisions.

6.3 The warranty period shall be 36 months from the delivery of the goods, or respectively, from acceptance – if acceptance is provided for. Any longer warranty periods provided for by applicable statutory provisions shall remain unaffected thereby.

6.4 HBM's approval of drawings, calculations and other technical documents shall not affect the contractor's obligations – in particular its warranty obligations – with regard to the delivered item. The same shall apply in the event that HBM has made suggestions and recommendations to the contractor concerning the implementation of the contract.

6.5 HBM's acceptance or approval of samples or specimen shall not constitute a waiver of any of its warranty rights.

6.6 The lapse of the warranty period shall be suspended from receipt of a written notice of defects by the contractor until rectification of the defects. In cases of replacement or repair of defective parts, the warranty period shall start anew with regard to such parts that have been repaired or replaced, unless HBM had to assume – based on the contractor's behaviour – that the defective parts have been repaired or replaced, as a gesture of goodwill or similar.

7. Liability , indemnification and insurance

7.1 The contractor shall be liable towards HBM for damages to the full legal extent. In cases where the contractor is responsible for product damage, it shall indemnify HBM against third-party claims upon first request, if and to the extent that the cause of action lies within the contractor's domain and organizational area, and the contractor itself is liable towards the third party.

7.2 The contractor's liability for damages shall include its obligation to reimburse HBM pursuant to Sections 683, 670 or 830, 840, 426 of the German Civil Code (BGB) for any expenditure arising from, or in connection with, a recall action that has been carried out by HBM. HBM will – to the extent possible and reasonable – inform the contractor about the content and extent of such recall measures and give it opportunity to comment. Statutory rights shall remain unaffected.

7.3 The contractor shall maintain product liability insurance with an insured sum of minimum EUR 2.5 million per event of damage or loss. If HBM is entitled to more extensive claims for damages, these shall remain unaffected.

7.4 The contractor guarantees that its deliveries or services do not infringe any national or, if applicable, international legal provisions, in particular import and export regulations. Any consequences resulting from the failure to comply with these regulations shall be the contractor's responsibility.

8. Rights of third parties

8.1 The seller warrants that, in connection with his deliveries, no rights – in particular, industrial property and similar rights - of third parties are violated in the European Union, the European Economic Area, North America, the People's Republic of China and all other countries in which the delivery goods are being manufactured.

8.2 The seller shall indemnify us from any claims of third parties that are being laid to HBM based on an infringement of industrial property rights in one or more of the countries mentioned in Subsection 8.1 above, and it shall reimburse us for all expenses that we incurred in conjunction with such claims asserted by the third parties.

8.3 Any items bearing HBM trademarks must not be supplied to third parties without HBM's previous written consent.

9. Assignment of receivables, subcontracting

9.1 If the contractor assigns its receivables from deliveries and services rendered to HBM to a third party without HBM's prior written consent, then the assignment shall be valid nevertheless. How-

ever, HBM may render fulfilment, at its option, either to the contractor or to the third party with discharging effect.

9.2 The contractor shall not be allowed to subcontract orders, in full or in part, to third parties without HBM's prior written consent. In any case of violation of this condition HBM shall have a right to partly or completely withdraw from the contract and demand damages.

10. Provision of material, documentation and tools, confidentiality

10.1 Documentation and/or manufacturing equipment of any kind, such as samples, drawings, models, tools, technical specifications, etc. which HBM makes available to the contractor, or which HBM pays the contractor for, may only be used for deliveries to HBM, unless HBM gives prior written consent. HBM shall retain ownership of such manufacturing equipment and tools. The copyright, and any other industrial property rights in HBM's documentation made available to the contractor, shall also fully remain with HBM.

10.2 The documentation and/or manufacturing equipment mentioned in 10.1 above, as well as the goods produced therefrom or therewith, shall be returned upon request in faultless condition as soon as the order has been completed or as soon as it is established that no order will be placed. Single items and copies may not be retained. At HBM's request, the contractor shall destroy any documents and/or manufacturing equipment paid for by HBM and, if applicable, provide the respective proof to HBM.

10.3 The contractor shall be obligated, at its own cost, to insure any tools and items belonging to HBM against damages arising from fire, water and theft, including the provision of cover up to the reinstatement value. It shall conduct any necessary maintenance and service work at its own cost and in a timely manner. HBM shall be notified immediately of any failures. If the contractor fails to do so, HBM shall be entitled to claim any damages arising therefrom.

10.4 The contractor shall keep all images, drawings, calculations and any other documentation and information it has received strictly confidential, and only disclose them to third parties with prior written authorization of HBM. The confidentiality obligation shall survive fulfilment or termination of the present contract. The contractor's employees and subcontractors shall be imposed the obligation to assume obligations to this effect in writing.

10.5 If the parts delivered by HBM are processed or intermingled, HBM shall acquire the co-ownership of the items created, in proportion to the value of the parts and materials supplied by HBM to the processed items at the time of manufacture.

11. Software, rights of use

11.1 The contractor's software will be made available to HBM on commonly-used data storage media in machine-readable code, in addition to the user documentation.

11.2 If software that HBM acquired from the contractor is no longer supported by the contractor, and if permanent support cannot be obtained in any other manner under reasonable conditions, the contractor shall be obligated to make the software – including source codes and documentation – available to HBM at reasonable conditions for its own purposes, and to allow a third party with expertise in the programming language to support the software and, if required, make necessary modifications in order to maintain the operation.

11.3 In case of software developed specifically for HBM, the source code and all data and information that are in addition to the source codes required to build an executable compilation from the provided source codes (e.g. make-files, compiler-parameters, synthesis parameters) together with manufacturer documentation (including specification of the developer tools that were used) shall be provided to HBM. The provided data shall correspond with the program version on completion of the test phase, respectively at the time of acceptance.

11.4 Any modification made to the software in conjunction with elimination of software defects or updates shall be integrated into the source code and the above mentioned data without delay; a copy of the respective updated version shall be provided to HBM immediately.

11.5 All rights with regard to software commissioned specifically by HBM shall remain with HBM, unless otherwise agreed. The contractor undertakes not to make such software available to third parties and not to use the software or components thereof to execute orders placed by third parties.

12. Jeopardizing performance

If the contractor's economic situation deteriorates during the term of the contract so that contract performance is seriously at risk, or if the contractor terminates its payments (even temporarily), or if insolvency proceedings or judicial or extrajudicial settlement proceedings have been initiated, HBM shall be entitled to rescind the non-performed part of the contract. HBM shall be entitled to rescind the entire contract, if the partial performance is not of interest to HBM.

13. Corporate responsibility, Code of Business Ethics

The contractor commits itself to observe the laws and other regulations of the respectively applicable legal system(s), not to tolerate any form of corruption or bribery and to respect the fundamental rights of its employees as well as the prohibition of child labour and forced labour. The contractor shall furthermore take on responsibility for the health and safety of its employees at work and ensure fair pay and fair working hours. It shall comply with the applicable environmental legislation and, to the best of its abilities, demand from and promote among its suppliers compliance with these principles.

HBM has in force a Code of Business Ethics which can be found at www.hbm.com/en/menu/about-us/corporate-responsibility/ and which HBM is committed to comply with at all times. HBM expects the contractor, without prejudice to the contractor's above commitment, to conduct its business with substantially equivalent ethical standards when conducting business with HBM.

14. Applicable law, place of jurisdiction, miscellaneous

14.1 The legal relationship between the parties shall be governed exclusively by the laws of the Federal Republic of Germany, to the exclusion of the conflict-of-law rules and the UN Convention on Contracts for the International Sale of Goods (CISG) of April 11, 1980.

14.2 The exclusive place of jurisdiction for any dispute or claim arising under or in connection with the respective contract shall be Darmstadt, Germany.

14.3 Should any of the provisions of the contract or of these Terms and Conditions of Purchase be or become invalid, this shall not affect the validity of the remaining provisions. An invalid or ambiguous provision shall be replaced by such provision or interpreted in a manner coming closest to the intended commercial purpose.

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