

## 1 Scope of Application

1.1 These General Terms and Conditions of Purchase apply to all deliveries and services rendered by the contract partner (hereinafter the "Contractor") to **SUSS MicroTec Netherlands B.V.** (hereinafter "SUSS"), except as agreed otherwise in writing. These General Purchase Conditions are filed at the Chamber of Commerce and Industry for Oost-Brabant in Eindhoven, trade register 77711106.

1.2 General terms and conditions of the Contractor shall not apply. The application of the Contractor's general terms and conditions is hereby expressly objected, there being no need for SUSS to reiterate such objection, should such terms and conditions be received from or a reference to them made by the Contractor. More specifically, the provision of services or acceptance of it does not imply that SUSS accepts such terms and conditions.

## 2 Subject Matter and Conclusion of Contract

2.1 The offer shall be compiled and submitted to SUSS at no expense. SUPPLIER shall moreover submit within reasonable time limits any complementary information that could be requested of him by SUSS. The offer shall be drawn up in conformity with the invitation to tender. Any possible difference shall be clearly marked, in writing, in the SUPPLIER's quotation.

2.2 Unless otherwise agreed, the offer shall be valid and binding for a three months period as from the date of receipt. SUSS may withdraw from negotiations started with the SUPPLIER at any time without owing him any compensation.

2.3 A contractual commitment on part of SUSS only arises upon written order confirmation by SUSS or by conclusion of a written contract ("Contract"). SUSS will submit orders in writing, by telefax or by e-mail.

2.4 It is the responsibility of the Contractor to have sufficient insurance coverage under a product liability insurance and a general liability insurance.

2.5 If requested by SUSS, the Contractor will make modification to the construction and make of the delivery item. In such case, the parties will duly regulate the consequences, in particular with respect to additional or reduced costs, as well as delivery dates and batch size.

## 3 Delivery Dates, Delays

3.1 Dates and deadlines set out in bidding documents or order confirmations by SUSS are binding. Decisive for the compliance with delivery dates and delivery deadlines is the receipt of the goods by SUSS. If a delivery date has not been agreed between the parties, the Contractor shall make the goods available promptly taking account of the normal time for loading and dispatch. In case nothing different is stipulated between the parties, delivery term shall be DDP SUSS site, Incoterms 2020. The title of the goods shall pass to SUSS upon delivery.

3.2 The Contractor is obliged to inform SUSS immediately in writing if circumstances occur or he becomes aware of the latter, as a result of which it emerges that the delivery date will not be able to be met.

3.3 Should the Contractor be in default (*Schuldnerverzug*), SUSS shall have the statutory rights. In particular, in case of noncompliance with binding delivery dates, no reminder (*Mahnung*) of Contractor is required for SUSS to claim damages for delay (*Verzögerungsschaden*). After expiry of an appropriate deadline for notification, SUSS may in addition withdraw from the Agreement (*Rücktritt*) and/or claim damages for non-performance.

3.4 In case of default of delivery, SUSS shall have the right to claim late delivery penalties to the Contractor at a rate of 0.2% of the total amount of the order per delay's day, up to a maximum of 10% of the total order value. Beside this penalty, in all cases where the SUPPLIER is in default to deliver, SUSS reserves the right to claim all losses and damages.

## 4 Packaging, Dispatch, Passing of Risk, Documentary Evidence of Origin, Labeling of Goods

4.1 If not expressly agreed otherwise, the agreed price includes free delivery (DDP Eindhoven Incoterms® 2020) including packing, transport and insurance. The Contractor shall arrange for appropriate insurance of the goods.

4.2 Unless there is an agreement to the contrary, the goods, which are to be delivered, shall be packed as is customary in the trade and appropriately or at the request of SUSS in accordance with the instructions of the latter with special packaging and shall be provided with special packaging instructions. The Contractor shall be liable for damage as a result of deficient packaging.

4.3 The delivery must comply with the relevant valid domestic and foreign legal regulations and guidelines as well as the requirements agreed in the order.

4.4 On request of SUSS the Contractor shall submit a written declaration regarding the customs origin of the delivery items as well as the necessary export control and foreign trade data (e.g.: All applicable export list numbers; if Contractor use U.S. components in its product the Export Control Classification Number according to the U.S. Commerce Control List (ECCN); the statistical commodity number according to the current commodity classification of foreign trade statistics (8-digit commodity number) as well as the HS code (Harmonized System Code; 6-digit commodity number); . This declaration shall be supplied to SUSS no later than with the first delivery.

4.5 The origin of newly accepted delivery items or a change in origin shall be indicated to SUSS in writing immediately and without prompting. The Contractor is liable for any disadvantages, which arise for SUSS through incorrect or delayed submission of the supplier declaration. Insofar as this is required, the Contractor shall provide evidence of his information regarding the origin of the goods by means of an information sheet confirmed by his customs office.

## 5 Quality, Subcontractor

5.1 The Contractor shall continuously check the quality of the delivery items and maintain an effective quality management system for this purpose and provide proof of this at first request or allow inspection of the corresponding documentation. The Parties will continuously inform each other about possibilities to improve quality. SUSS reserves the right to carry out quality audits (contractor audits) at the Contractor and to document the results within the framework of the contractor evaluation. In case of quality defects the Contractor shall identify the cause and arrange for and document appropriate correction (e.g. by mean of the SUSS 4D-Report).

5.2 The goods shall be produced with competitive manufacturing technology taking account of the relevant current state of the art. The goods shall be produced by the Contractor subject to compliance with the valid European and North American standards and guidelines, safety regulations and the agreed technical data.

5.3 The Contractor undertakes to observe the relevant protective laws and other up-to-date safety regulations, (e.g. EU Directives, VDE [Association of Electrical Engineers] provisions for electrical parts, UL regulations) which come into consideration for the delivery items. The former shall release

SUSS on first demand from any claims under public or private law arising from an infringement of these regulations. The Contractor shall supply all the necessary test certificates, declarations and certificates with the goods without prompting.

5.5 With regard to initial orders or if there is an alteration to the implementation of orders, prior to final production, at the request of SUSS a number of samples required by SUSS shall be provided – indicated as such. Only after written approval of the samples by SUSS, shall the order be considered as having been placed.

5.6 If the type and extent of the inspection as well as inspection methods and procedures have not been agreed between the Contractor and SUSS, the Contractor shall at the request of SUSS be prepared to discuss the inspections as part of his knowledge, experiences and opportunities, in order to establish the relevant status of the inspection technology required.

5.7 The following alterations initiated by the Contractor require the prior written consent of SUSS if the production parts or components have been specified by SUSS:

- Alteration of material or surface
- Other alterations to a specification compared with the order information from SUSS,
- Alterations to the inspection or manufacturing procedures,
- The relocation of the production plant.

5.8 In the event of changes to catalogue goods by the manufacturer SUSS shall be notified in writing in the following cases:

- Alterations to the specification compared to previously valid data sheets (notification no later than with a fresh order),
- Discontinuing a product, which has been ordered at least once a year by SUSS (immediate notification indicating an order period for remaining stocks, as well as a recommendation for a replacement product).

5.9 The use of third parties for contract performance by the Contractor requires prior written consent by SUSS. Subcontractors must have the required qualification. Consent shall be in the sole discretion of SUSS. The contractor guarantees compliance with his obligations under these terms and conditions, in particular under sections 4.3, 5.1, 5.3 and 5.11, for the entire supply chain.

5.10 Prior to any delivery, the Contractor shall, without further request by SUSS, provide the information according to Regulation (EC) No 1907/2006 (REACH) for all concerned materials, in particular with respect to SVHC (substances of very high concern).

5.11 The Contractor guarantees to refrain from supplying "conflict minerals" pursuant to Art. 1502 Dodd-Frank Act. The Dodd-Frank Act defines the term "conflict minerals" as the raw materials tantalum, tin, gold and tungsten if their extraction and trade contribute to the financing or other support of armed groups in the Democratic Republic of the Congo or its neighbouring states (Angola, Burundi, Republic of the Congo, Rwanda, Zambia, Sudan, Tanzania, Uganda, Central African Republic).

## 6 Price and Payment, Prohibition of assignment

6.1 The price indicated in the order or other bidding documents is binding. The price includes VAT unless otherwise stated in the order or other bidding documents. Except as agreed otherwise in the Contract all prices shall be fixed and shall cover all costs incurred by Contractor in executing the Contract.

6.2 Payment shall be due and payable within 60 days after receipt of the goods and / or delivery of the services in accordance with the contract and receipt of a proper and verifiable invoice.

If payment is made within 14 days after receipt of the invoice SUSS is entitled to deduct a discount of 3%.

6.3 In Contractor's order confirmation or invoice, Contractor will mark items that require an export license or are subject to US re-export regulations and provide SUSS with the category code due to Attachment I of the Council Regulation (EC) No. 428.2009 or the ECCN code due to US Export Administration Regulations (EAR) and the country of origin, net weight, as well as obliged certificates for the product at import.

6.4 SUSS shall have the statutory set-off and retention rights (Aufrechnungs- und Zurückbehaltungsrecht). In case a delivery is not in accordance with the contract, SUSS in particular is entitled to refuse payment of an appropriate amount until due performance.

6.5 Without prior written consent by SUSS, the Contractor may not assign or transfer any claims vis-à-vis SUSS to, or have collected such claims by, any third person. In case of an extended retention of title (verlängerter Eigentumsvorbehalt) consent is deemed to exist.

## 7 Acceptance

7.1 If the Contractor performs services of a contract for work and services or contract for work and materials nature, the services are to be subjected to an acceptance test. SUSS shall subject the work provided by the Contractor to an acceptance test within an appropriate period. Depending on the type of work involved, SUSS shall have the right to demand that an acceptance test be preceded by an appropriate test phase and functional test.

7.2 Following conclusion of the acceptance test, SUSS shall declare in writing its acceptance of the work, provided it is free of defects. Minor defects shall be ignored, provided they are not considered in their entirety to constitute a major impairment; minor defects ignored during acceptance shall be eliminated without delay as part of warranty work. The declaration of acceptance must be made in writing in order to be valid. Implied and/or or fictitious acceptance shall be excluded.

## 8 Liability for Defects

8.1 SUSS shall inform the Contractor in timely manner of any defects in or damage to the products as soon as such defect or damage has been discovered in the ordinary course of business.

8.2 SUSS shall have the statutory rights pertaining to defects of products. In particular, SUSS may request the Contractor at SUSS' option either to remove the defect or supply a replacement product. In addition, in case of imminent danger or particular urgency, SUSS may remedy the defect itself or by a Third Party on the Contractor's expenses.

8.3 Any claims SUSS may have in respect of material defects are subject to a period of limitation of 18 months from delivery. Insofar as SUSS provides services of a contract for work and services (*Werkvertrag*) the period of limitation commences with acceptance.

8.4 Any claims SUSS may have in respect of defects of title are subject to a statutory period of limitation of 60 months from delivery. Insofar as Contractor provides services of a contract for work and services the period of limitation commences with acceptance.

## 9 Industrial Property Rights/Rights of Use

9.1 SUSS will retain all rights, including title and intellectual property rights, in own images, drawings, calculations and any other kind of documentation ("SUSS material"). SUSS-material may exclusively be used for the delivery and/or manufacture of the products based on the respective order.

Insofar as the SUSS material is protected by copyright, SUSS shall grant the contractor a non-exclusive, non-transferable right of use for the period of the contractually agreed cooperation, spatially to the place of intended use, as far as this is necessary for the delivery and/or manufacture of the products on the basis of the respective order.

- 9.2 The Contractor guarantees that no industrial property rights of a third party (e.g. from a patent, trademark, usage or registered design right) are infringed in the use of the delivery item and releases SUSS and the customers of SUSS from any claims by a third party in this respect on first demand. The Contractor's obligation to indemnify refers to any expenditure incurred by SUSS or a third party in connection with the assertion of a claim.
- 9.3 The Contractor grants, at the moment of their creation, to SUSS the exclusive right of use to the services and deliveries which the Contractor provides for SUSS under this Agreement as well as to the results of work, produced for the latter, including but not limited to expert opinions, documentation, reports, organizational and project plans, drafts, records, lists and calculations as well as any individual software developed, modified, or customized for SUSS in source and object code as well as to databases and database works produced for SUSS. The right of use granted shall be irrevocable and unrestricted in scope and substance, time and territory. This shall also apply with regard to changes, customizations and other modifications or extensions of standard software made for SUSS, in which existing program code is changed or new program code is created.
- 9.4 Within the framework of the development, modification or adaptation of individual software, the Contractor shall inform SUSS in due time whether its services contain "Open Source Software". "Open Source Software" within the meaning of this provision means software which is passed on to third parties free of license fees and which may be processed by any user and/or which must be disclosed to licensees or third parties in source code form.
- 9.5 If the Contractor's services contain open source software, the contractor shall deliver the following to SUSS at the latest upon order confirmation:
- source code of the open source software used, as far as the applicable open source license conditions require the disclosure of this source code;
  - list of all open source files used with a reference to the applicable license as well as a copy of the complete license text;
  - written declaration that neither the services of Contractor nor the products of SUSS are subject to a "copy left effect" due to the intended use of open source software, whereby "copy left effect" in the sense of this provision means that the open source license terms require that certain services of Contractor as well as works derived from these may only be distributed under the terms of the open source license terms, e.g. by disclosing the source code.
- 9.6 SUSS may, for justified reasons, demand that the Contractor substantiate its statements, for example by submitting the results of a corresponding open source test software.
- 9.7 If the Contractor only points out after receipt of the order that his services contain open source software, SUSS shall be entitled to revoke the order within 14 days after receipt of the notification and transmission of all information listed in the above paragraph and to claim damages.
- 9.8 Without the prior written consent of SUSS, Contractor shall not use SUSS or the SUSS trademark for any advertisement or reference advertisement.

## 10 Product Cycles, Product Liability, Public Liability Insurance

- 10.1 The expected life cycle of the deliveries is at least 10 years. The Contractor shall secure, for a period of at least 10 years starting from the delivery and/or acceptance of the last product of a respective product series, the provisioning of spare parts and expendable items for the deliveries at appropriate prices. The Contractor will provide SUSS with a list of spare parts and expendable items with their respective availability. On SUSS' request, the Contractor will provide SUSS with available upgrades and updates during and before the warranty period free of charge. The Contractor will thoroughly test all upgrades and updates before commissioning. The Contractor shall, without further request by SUSS, provide SUSS with an exact written documentation of the testing methods and results. Prior to any use of updates and upgrades in deliveries, the Contractor shall obtain written approval by SUSS.
- 10.2 The Contractor shall, without further request by SUSS, give written notice to SUSS of the end of any product cycle (End of Life) with a minimum notice period of 6 months before such end of any product cycle.
- 10.3 The Contractor undertakes to maintain sufficient product liability insurance until expiry of the relevant limitation of the defect.
- 10.4 In case of any claims against SUSS for violation of official safety regulations or domestic or foreign product liability regulations due to a defect of a product, which can be attributed products delivered by the Contractor, SUSS is entitled to compensation by Contractor for damages to the extent such damage has been caused by the products delivered by the Contractor. Such damages also include costs for a precautionary recall campaign and legal costs and expenses.

## 11. Environment, health & safety at work

- 11.1 During works done in SUSS's premises, the SUPPLIER undertakes to comply with the safety and other measures that are required there.
- 11.2 The SUPPLIER will be responsible for the safety of its own personnel. It will supply its personnel with the equipment needed to ensure their safety under all circumstances and shall take all necessary measures to avoid the risks of fire or environmental damages (air, water or soil).
- 11.3 The SUPPLIER will manage the executing personnel in a professional way, in compliance with the ethics of the profession, and in compliance with the provisions of labor law and the Universal Declaration of Human Rights & Children Rights.
- 11.4 The SUPPLIER guarantees that the execution of the order and the goods delivered and any transport of the goods will comply with the terms of the laws and regulations particularly pertaining to hygiene, security and the environment, in force in the Netherlands, in the countries of transit and the place of delivery.
- 11.5 The SUPPLIER undertakes to cooperate actively with SUSS in the context of its purchasing and security of supply policies to ensure the quality of the supplied products and their compliance with law.

## 12 Confidentiality

- 12.1 The contractual parties undertake to treat all obvious commercial and technical details, as well as knowledge regarding strategic projects and cooperation, of which they become aware through the business relationship, as company secrets and not disclose these to a third party. The obligation



to maintain confidentiality shall also apply after the order has been completed.

12.2 Models, templates, samples, CAD/CAE data, specifications, drawings, calculations, data and other confidential information, which is made available to the Contractor by SUSS, must not be passed or made available in another form to an unauthorized third party without the written consent of SUSS. Subcontractors shall be included accordingly in maintaining confidentiality by the Contractor.

12.3 The Contractor undertakes to keep the documents made available to him properly and to return the documentation to SUSS if requested to do so by SUSS.

12.4. If an NDA is signed between the parties, this NDA shall prevail over this clause 12.

### 13 Provision of Materials

13.1 Insofar as SUSS provides materials to the Contractor, SUSS shall retain ownership of the latter. The Contractor shall undertake processing or conversion for SUSS. If the goods under reservation of ownership are processed with other items, which do not belong to SUSS, then SUSS shall acquire co-ownership of the new items in relationship to the value of the item from SUSS to the other items processed at the time of processing.

13.2 If the materials provided by SUSS are inseparably mixed with other items, which do not belong to SUSS, then SUSS shall acquire co-ownership of the new items in relationship to the value of the item under reservation of ownership to the other items mixed at the time of mixing. If mixing takes place in such a way that the item of the Contractor is regarded as the main item, it is considered agreed that the Contractor shall transfer co-ownership to us proportionately. The Contractor shall hold sole ownership or co-ownership for SUSS.

13.3 Insofar as the security interests to which we are entitled in Section 13.1 and/or 13.2 exceed the purchase price of all our goods under reservation of ownership, which have not yet been paid, by more than 10%, SUSS shall be obliged to release the security interests at the request of the Contractor at SUSS' discretion.

13.4 SUSS shall retain ownership of tools. The Contractor is obliged to use the tools exclusively for the goods ordered by SUSS. The Contractor is obliged to insure the tools belonging to SUSS at replacement value at his expense against storm, fire, water and theft damage. The Contractor is obliged to undertake the necessary maintenance and repairs to the tools promptly at his expense.

### 14 Ownership Rights and Liability for Services Provided under the Terms of a Service Contract

14.1 With regard to services provided under the terms of a service contract, the Contractor shall be obligated to provide timely, optimal and expert performance in conformity with the state of knowledge and the art and a high standard of execution.

14.2 Any (material) work results of services under a service contract shall become the property of SUSS upon their creation.

14.3 With regard to services of the Contractor that fail to satisfy the above requirements, SUSS shall have the right to demand cost-free subsequent performance from the Contractor without delay. SUSS shall have the right to set an appropriate deadline for the elimination of defects by subsequent performance. If the deadline passes without the defects having been eliminated, SUSS may choose either to continue requesting the Contractor to eliminate the defects or to reject further efforts by the Contractor and then shall have the right to eliminate the defects on its own or have them eliminated at the Contractor's expense.

14.4 This shall not affect further rights and/or claims of SUSS provided for by law.

### 15 Force Majeure

15.1 Neither of the Parties will be liable nor deemed to have failed to meet all or part of its obligations pertaining to the order if this is due to a case of Force Majeure (e.g. labour disputes, riots, war or terrorist conflicts, pandemics, epidemics and related official/governmental orders, which result in unforeseeable consequences for the performance of services)..

15.2 The party invoking Force Majeure will inform the other Party within eight (8) calendar days of the occurrence of the event beyond its control, the foreseeable duration and consequences thereof, and when it comes to an end. That party will make every effort to limit the scope of such event.

15.3 The execution of the order will resume normally as soon as the circumstances beyond the control of the Party have ceased. If the suspension of the order exceeds thirty (30) days, the Parties will consult each other to agree on the terms for terminating the order or, insofar as possible, to agree on a new term for its execution.

### 16 Termination

16.1 SUSS can terminate the contract with immediate effect and refuse delivery without compensation particularly:

- i. in the event of serious negligence;
- ii. if the SUPPLIER fails to comply with the stipulations and conditions of these general terms of purchase, and fail to correct any non-compliance within a reasonable time of notice of that failure.
- iii. when the SUPPLIER is one month late in the execution of the delivery or services to be provided under the guarantee, or, in the event a term has not been set, when an additional period of time that has been accepted is not respected.
- iv. when it appears, before the term of delivery, that the SUPPLIER has a delay such that it will not be able to meet the date of execution or that the object ordered will not comply with the order.
- v. in the event of insolvency or bankruptcy of the SUPPLIER.
- vi in the event the SUPPLIER will be merged or acquired by a company which is a competitor of SUSS.

16.2 SUSS 's rights for damages remain reserved.

### 17 General Provisions

17.1 Subsidiary agreements, amendments or supplements to this agreement must be made in writing to be valid. Any document revoking the need for the written form must be made in writing to be valid.

17.2 The Contractor shall not be entitled to name SUSS as a referee without prior written consent by SUSS.

17.3 This Agreement shall be governed by Dutch law to the exclusion of all procedural and substantive rules of law that refer to a different legal system. The UN Convention on Contracts for the International Sale of Goods is not applicable.

17.4 To the extent allowed by law, the place of performance and jurisdiction shall be Amsterdam.

17.5 If any provision of this Agreement is deemed to be or to have become unenforceable, the validity of the agreement as a whole shall remain unaffected. The Parties to the Agreement shall replace the unenforceable provision by an enforceable provision that comes closest to the aim of the Agreement after taking into account the economic interests of both Parties.

17.6 The Business Partner Code of Conduct of the SUSS Group is available under [Einkauf | SUSS MicroTec](#) and is

automatically accepted by Contractor with its order acceptance.