



## GENERAL TERMS AND CONDITIONS OF PURCHASE

### 1. Basics / General Information

Contractor acknowledges that his Goods and Services will be part of a complex integrated installation. Consequently, faulty Goods or Services delivered by Contractor are likely to cause considerable problems in the overall implementation of the project and incur additional costs. The cost implications may be particularly grave in case of projects implemented abroad. Contractor therefore undertakes to fulfill his obligations with special care in accordance with these circumstances. This implies the acquisition of all information significant for the fulfillment of the Contract under the specific conditions, such as the chosen transport route and the destination site, as well as for the successful integration of the Goods and Services delivered by Contractor into the main installation.

### 2. Basis of Contract

The grounds of the Contract are as follows:

- a) reference to Contractor's offer number or our order number;
- b) minutes of negotiations;
- c) the current Mironox General Terms and Conditions of Purchase;
- d) a list of services and specifications with preliminary technical remarks and supplements, as well as a list of time-based service tariffs;
- e) engineering plans and drawings, including technical documentation, as well as construction permits and other necessary licenses;
- f) all technical and legal requirements of the Developer, insofar as these relate to the job to be performed by Contractor;
- g) relevant technical and legal standards, unless expressly excluded by the provisions below.

The references above shall apply in case of any conflicts, in the quoted order of priority, and are complementary of each other.

The Goods shall be only ordered under these General Terms and Conditions of Purchase. They shall also apply to any future business with Supplier. Any supplementary or deviating terms or conditions used by Supplier shall only apply if expressly agreed upon with Supplier. Such an agreement shall be made in writing.

Contractor's own general terms and conditions shall not apply even if the order quotes any documents included by Contractor into his offer package.

In case of mutually accepted minutes of negotiations, our contractual relationship with Contractor commences with the submission of our order. Only written or electronic or facsimile orders by Mironox shall be considered legally binding. Contractor shall confirm our orders in writing, indicating our order number, within the deadline specified by us, but no later than 5 days from the date of ordering. The lack of a written confirmation shall be considered as Contractor's acceptance of the order. Any deviations from Mironox orders shall be clearly stated and held valid only if expressly accepted by us in writing; unconditional acceptance of the Goods shall not be equal to such approval.

### **3. Prices**

Ordering prices are VAT-free, fixed prices that cover all Contractor's costs and expenses related to his delivery of Goods and Services. These include, in particular, all shipment, insurance and packaging costs, as well as taxes, customs, duties and other charges associated with the delivery by Contractor of the agreed Goods and Services. Should ourselves, as required, undertake the payment of shipment costs, Supplier shall choose the cheapest possible method of shipment. Mironox shall cover only such costs that are expressly pointed out in the order as those to be paid by the Client. Subsequent order extensions or supplements to submitted orders as well as orders for spare and wear parts are subject to the terms and conditions of the main order. The price basis applied by Contractor shall be "Delivered Duty Paid" ("DDP" according to INCOTERMS 2010), provided that Contractor undertakes to cover the cost of unloading the Goods at the destination indicated in the order and purchase a suitable shipping insurance. If, due to Supplier's fault, the agreed delivery deadline can only be met by accelerated shipment, the related additional expenses (e.g. express delivery or airfreight charges) shall be borne by Supplier, even if originally we undertook to cover the standard shipping costs. The same applies where accelerated shipment of the Goods is used to reduce a delay in the delivery time.

### **4. Delivery and Lead Time**

In terms of documentation (including all textual, graphical and other documents accompanying Contractor's deliveries of Goods and Services and allowing both Contractor and Mironox to perform their duties towards their own contractual partners in a timely and efficient manner), the delivery date shall be the respective incoming date on the Mironox stamp, provided the delivered documentation is complete and matching the order.

In terms of Goods and Services, the delivery date shall be the date of full and flawless completion by Contractor of his obligations in accordance with the order, including supply of complete and correct documentation.

All consignments shall be accompanied by a delivery note; the delivery note and the invoice shall clearly show all order details. In case of missing or incorrect/incomplete delivery note, we are entitled to reject the delivery. Should we nevertheless put the Goods in storage, the storage shall take place at the cost and risk of Supplier. A copy of the delivery note shall be sent to us at the time of dispatch of the Goods by separate mail, e-mail or fax.

The agreed delivery deadlines and schedules shall be strictly observed by Contractor. In case of early delivery, the payment deadline shall not begin until the due date originally set. In case of premature delivery made without prior consent, Mironox reserves the right to charge the costs (e. g., storage rental etc.) related thereto. Ultimate from the point of view of a timely delivery shall be the arrival of the Goods at our specified delivery destination within usual business hours. If the required transport documents are not available to us at the time of arrival of the Goods, all costs arising therefrom shall be borne by Supplier. In such a case, we are also entitled to reject acceptance of the delivery at the expense of Supplier.

Supplier shall choose a method of shipment that will in all cases ensure compliance with the agreed delivery deadline. Should Supplier fail to meet a delivery deadline, a shipping method shall be chosen so as to enable the fastest possible delivery of the Goods to our specified delivery destination. If we are to cover the transport costs according to a separate agreement, then in case of any express delivery provisions of Section 3 shall apply.

In the event that Contractor anticipates any difficulty in complying with any agreed delivery deadline or schedule, he shall inform Mironox accordingly as soon as possible and specify the reasons and the

expected duration of the delay.

Apart from failure to meet the delivery deadline, a faulty delivery or Goods or Services shall also be regarded as Contractor's default. In the event of a delay for reasons lying within the Contractor's scope of responsibility, a contractual penalty may be applied calculated from the total value of the order increased by the Sales tax for the period of delay till the actual delivery date; the penalty may be deducted from the current partial or the final invoice as follows:

- Delivery of Goods or Services: 0.5% per started day of delay
- Delivery of documentation: 0.25% per started day of delay

Reservation of a penalty towards Contractor for delayed delivery shall not prejudice the Mironox' right to claim a penalty at a later date in respect of that delivery. The payment of contractual penalties shall not exempt Contractor from his obligations under the Contract and from his other obligations. The contractual penalties mentioned above are irrespective of any fault of Contractor's, but merely assume that the delay is attributable to reasons lying within the Contractor's scope of responsibility. The amount of a contractual penalty shall not be subject to mitigation by a court of law.

Besides, the agreed contractual penalties do not preclude any compensation claims related to further damage incurred to us.

Regardless of the accepted Penalty Regulations, in the event of a default Mironox shall either establish or effectively grant to Contractor a time limit appropriate under the circumstances, upon fruitless expiration of which Mironox is entitled to withdraw from the Contract. In this case, we may enforce the consequences of the default. Moreover, Contractor understands that Mironox has undertaken towards its own Client a strict adherence to all agreed deadlines and has entered into corresponding penalty obligations that entitle Mironox to pass them on to Contractor in case of missed deadlines irrespective of the accepted Penalty Agreement and/or the above Penalty Regulations (enforcement of the penalty). Upon request, Contractor will be informed of the penalty arrangements agreed upon by Mironox and its own Client. In any case, Contractor herewith agrees to waive any objections to the lack of predictability on such damages caused by delay. Should rescheduling take place due to Contractor's delay, it shall not affect the application of penalty for defaulting the original deadline.

If the agreed delivery/service deadlines change for reasons beyond the scope of Contractor's responsibility, Contractor agrees to undertake the appropriate storage of the Goods for up to two months at his own cost and risk.

In case we refuse to accept the delivered Goods because of complaints from our incoming quality inspection, the consignment shall be collected by Supplier free of charge within 5 working days upon notification.

In case of delivery to a third party indicated by us, the Goods must be accompanied by our delivery note only. At the time of dispatch of each consignment, Supplier shall send us a written dispatch note, as well as – when required – a test report and a production record.

Partial, under- or excessive deliveries are only permitted if Parties have made a separate written agreement thereon during the fulfilment of the order.

The weights determined by our factory scales shall be regarded as the weights delivered. So long as weighing at the factory is not possible, in case of railway delivery the official weight data indicated in the consignment note, while in the case of truck delivery the weight data measured on any available public scales shall apply.

## **5. Dispatch and Customs**

The actual shipping conditions and shipping instructions valid for this order can be found in the order. In case of any uncertainty, information shall be requested directly from the Customer using the contact details indicated in the shipping instructions (by phone, e-mail or fax). Shipments from abroad must additionally include a commercial invoice (twofold) and a valid proof of preferential status (like movement certificate, statement or certificate of origin, etc.) attached to the freight documents.

The complete order and contract number as well as the name of the declared unloading location must be clearly and visibly indicated in the consignment note and in the shipping documents intended for the consignee and (by means of inscription or self-adhesive labels) on the cargo itself. All shipping documents and invoices shall show the total (net and gross) weight of the cargo. If the order contains a reference to an item number as per the Contract, this number shall also be indicated on all commercial and freight documents.

A compulsory goods declaration is required for announced deliveries of certain goods. Just as mandatory is the "customs clearance by inspection at the recipient by the competent customs authority".

Incidental costs associated with the execution of the order that are neither regulated by agreement of the Parties, nor stipulated in INCOTERMS 2010, shall be borne by Contractor.

Otherwise, the shipping and packaging instructions and specifications applicable to the specific transaction, as well as the customs requirements are an integral part of these General Terms and Conditions of Purchase.

In the event of non-observance of the delivery, packaging, customs clearing or documentation instructions set forth by us, all risks, damages and costs attributable to Contractor shall be borne by Contractor, while the due date of his invoices shall be deferred until the above provisions are fully complied with and the missing documentation has been provided.

The transport insurance shall be covered by Supplier.

## **6. Packaging**

Contractor undertakes to use environmentally friendly and as low-cost as possible packaging for the construction parts and production elements delivered under the order. A packaging classified as hazardous waste will either be returned "freight collect", or the disposal costs shall be charged to Contractor. Packaging costs are borne by Contractor and included in the total cost. No separate agreements shall be applied on this subject.

In the lack of special instructions, the Goods shall be packed appropriately, according to custom and usage. All shipping and packaging materials shall become the property of Mironox. Return thereof is possible at the cost and risk of Contractor.

## **7. Quality of the Goods, Samples**

The agreed quality of the Goods shall include all properties and features indicated in the inquiries, specifications, orders, order confirmations or other correspondence. The same shall fully apply to the properties and features of the Goods as specified on the product packaging or mentioned in the Supplier's or Manufacturer's promotional materials. Besides, the Goods shall also comply with the properties and features of a product sample that may have been provided to us and accepted by us. The initial sample (or master sample), if submitted, shall continue to constitute the basis of the Contract even if Supplier subsequently provides us with selection samples prior to individual or partial deliveries in order to certify the quality of his current production. If the selection sample represents a major improvement over the original design, it can be mutually accepted by the Parties in a separate written agreement as a new master sample mandatory for all future deliveries.

Supplier guarantees that the supplied Goods do not infringe any rights of third parties in the country indicated by us to Supplier as the country of destination.

## **8. Warranty / Guarantee, Compensation Claims and Liability**

As regards the transfer of risk, the delivery of Goods or Services by Contractor shall be considered as completed upon unloading at the place of destination. As regards the guarantee, the delivery of Goods or Services by Contractor shall be considered as completed upon defect-free transfer of the complete installation to the Client (Developer).

In addition to the expressly specified or otherwise promised or generally presumed properties, Contractor guarantees the completeness and suitability of the supplied Goods or Services for a specific application – in particular, the suitability of the supplied Goods or Services for use as part of a complete installation in the conditions prevailing on the site (thus guaranteeing compatibility of the delivered items with other components of the system); Contractor also ensures compliance of the delivered Goods or Services with the applicable standards and regulatory requirements (especially those regarding safety and environmental protection), uninterrupted availability of the delivered items in accordance with their agreed performance and consumption values, easy installation, maintenance and repair. Contractor undertakes to provide information on the latest production technology applied.

Contractor guarantees the delivered Goods or Services against any defect for the term of 12 months from acceptance of the complete installation by the Client. In case of defects, the warranty period shall recommence after the defect has been rectified (especially via replacement or repair).

The warranty period shall constitute 36 months from the date of receipt of the delivered Goods or Services (see Paragraph 1 of this section). Mironox is released from the obligation to notify defects. For hidden defects, the warranty period begins only upon the discovery of the defect. In the case of defects covered by the warranty, the warranty period shall recommence after the defect has been rectified.

Should a warranty- or guarantee-covered defect occur during the guarantee or warranty period, Mironox may, at its sole discretion, either request Contractor to repair the defect, or repair the defect independently at Contractor's cost, or have it eliminated by a third party (substitute measure). In this case, Contractor shall bear all costs and associated expenses such as transportation, customs duties, dismantling, etc. required to repair the defect.

Contractor guarantees that the spare and wear parts kit to be agreed upon by the Parties will ensure continuous and smooth operation of the equipment for up to two years from the date of commissioning. Otherwise, Contractor shall perform subsequent deliveries (based on "DDP" in accordance with INCOTERMS rules) to the destination named by Mironox free of charge. For 5 years upon expiration of the warranty period, Contractor guarantees the availability of spare and wear parts required for the operation of the delivered products.

In the event of deficient delivery of Goods or Services by Contractor, the right of retention may be exercised within the framework stipulated by law. The burden of proof in demonstrating the proper provision of services and lack of Contractor's guilt in the event of improper performance shall be the duty of Contractor. This burden of proof extends beyond the guarantee and warranty period and shall apply also upon the expiry thereof. An agreement on money retention shall not affect the exercise of retention right by Mironox.

In the event of faulty delivery of Goods or Services by Contractor, Contractor shall also reimburse the costs incurred in the course of identification/defection of the defect (for example, due to employment of other contractors, changing plans or schedules, involving additional monitoring, expert opinions, etc.).

To meet the deadline for filing a complaint regarding an obvious or hidden defect, it is sufficient to send a timely notification of the discovered defect to Mironox. In case of reselling the Goods for their intended purpose in an unopened packaging, the period for consideration and filing of a complaint begins with the delivery of the Goods to our client. Our incoming inspection is only limited to externally visible damage as well as checks on the quantity and identity of the ordered products on the basis of the freight documents. If, as a result of at least two faulty shipments, an inspection of incoming goods is required that goes beyond the standard procedure, the resulting additional costs are to be borne by Supplier.

In case of a late supplementary performance or in an extremely urgent case, we are entitled to carry out the supplementary performance ourselves at the expense of Supplier or get it carried out by a third party. For reworked or replaced parts, the limitation period shall be re-started.

Notwithstanding the right of Mironox to consent, in the event of subcontracting Contractor shall be liable for any faulty or deficient performance by his suppliers/subcontractors as well as for its own faulty or deficient performance. In particular, Contractor is not entitled to refer to any limitations of distributor liability that may be provided by the case-law. Shall Mironox be held responsible for any violation of the official safety regulations or for breach of domestic or international product liability rules, and the claimed violation is attributable to the Goods supplied by Contractor, the latter shall reimburse Mironox for all and any resulting damages, indemnify and hold Mironox completely harmless against any claims or liabilities. Contractor confirms that on his behalf he has taken on a sufficient civil liability insurance which includes, in particular, adequate protection against all risks arising from the product liability. He undertakes to maintain this insurance at least until the end of the warranty period and, upon request, to hand over to Mironox the original insurance policy or a copy thereof. Shall Mironox file a claim against Contractor, the latter shall only be entitled to set off if his counterclaims have been acknowledged by Mironox both in terms of their reason and value.

## **9. Invoicing**

The invoices (in twofold) together with a copy of dispatch note or delivery note and required certificates, shall be sent to us as a separate mail immediately upon dispatch. The invoice shall clearly indicate our order number, item/lot number(s) and contract number; invoices for services shall also be accompanied by performance confirmations.

In case of deliveries to the construction site, a copy of the delivery note signed by the authorized employee of Mironox shall always be attached to the invoice.

In the case of domestic deliveries, the invoice shall clearly indicate both the VAT rate (in percent) and the amount of the VAT, including the invoices with a value of less than EUR 100. The invoice shall be addressed to the Client. When addressed otherwise, the invoice shall only be considered as accepted upon physical receipt by the Client.

## **10. Payment**

Following the appropriate delivery of Goods or Services, upon receipt of a properly furnished invoice Mironox, unless otherwise agreed by the Parties in writing, shall pay the invoice within 30 days without deducting any discounts, in the currency of its choice. Performance of the payment shall neither imply our acknowledging the conformity of the delivery of Goods or Services to all requirements, nor serve as a waiver of our rights. The due date of the invoice shall be determined on basis of the date of our receipt thereof. Payment and discounting periods only commence after Supplier has fully complied with his delivery and service obligations. This includes, without limitation, provision of all documents accompanying the Goods, as well as other documents such as manufacturer's certificates, certificates of origin, test reports etc. In case of delivery to a third party designated by us, proof of receipt shall be enclosed. The invoices shall only be paid upon receipt of the above documents. We shall not be held in default on payment in case of incomplete or incorrect invoicing information (see Section 9).

Contractor agrees to offset the claims asserted by Mironox, in particular those arising from the title of warranty, guarantee and damages, against any claims asserted by Contractor. This right to compensation also applies to claims and liabilities of companies in which Mironox holds shares. Contractor is not entitled to assign or transfer claims under this Contract to third parties without the consent of Mironox. Should Mironox agree to a cession or transfer, Mironox is entitled to a processing fee equal to 2% of the ceded or transferred amount; it may be deducted from the invoice value at the time of settling the invoice. COD shipments shall not be accepted (except special cases based on written agreements).

The limitation period for Supplier's payment claims is one year. This limitation period also applies to other claims asserted by Supplier.

## **11. Vis Maior**

Parties shall be fully or partially exempt from the obligation to timely perform their duties under this Contract if they are prevented from doing so by force majeure. Events of force majeure shall be restricted ó exclusively to natural disasters and wars. On our part, we may refuse to accept the delivery if an event of force majeure or other circumstances beyond our control, including industrial disputes, would make our acceptance of the consignment impossible or unreasonable. In such a case, Supplier shall store the delivered item at his own cost and risk.

## **12. Withdrawal from the Contract**

**Breach of Contract:** In the event of a serious breach of the Contract by Contractor, Mironox is entitled to withdraw from the Contract – in whole or in part – following a reasonable grace period (usually 14 days). There is no need to formally set a grace period if Contractor has received or will be granted a reasonable grace period after a warning from Mironox, or if Mironox has sufficient grounds to assume that Contractor will not be able to timely fulfill his essential contractual obligations.

Serious breaches of the Contract include – inter alia – delays in interim and final deadlines or defects that jeopardize timely performance by Mironox of its contractual duties towards its own contractual partners. Contractor undertakes to reimburse any amounts already paid by Mironox for outstanding deliveries/uncompleted services and any financing costs incurred. Should at least two faulty (partial) deliveries have taken place during the fulfillment of consecutive or framework contracts, we shall be entitled to terminate the Contract without notice. In the event of negligent behavior, Supplier shall reimburse us for the damage incurred by the termination of the Contract.

Further claims by Mironox, in particular those relating to penalties and damages, shall remain unaffected by the declared withdrawal from the Contract.

**Solvency of the Contractor:** Mironox is entitled to withdraw from the Contract, in whole or in part, if bankruptcy or liquidation proceedings are opened against Contractor or the opening of such insolvency proceedings is rejected due to a lack of cost-covering assets.

**Cancellation:** Mironox may also terminate the Contract in the case of termination – for whatever reason – of its contract with the Client or in any other circumstances that eliminate the necessity for the delivery of the agreed Goods or Services. In such cases, Contractor is only entitled to compensation for the Goods or Services already delivered.

### **13. Inquiries, Ordering Documentation, Confidentiality**

Any materials (plans, drawings, product or material samples, models, etc.) enclosed with our request for quotation or our order remain our property and may not be used for any other purpose without our written consent; they shall be returned to us without further request upon completion of the order. The use of our order for advertising purposes is not permitted. The order and all data, documents or other materials related thereto shall be considered proprietary information and treated confidentially. No remuneration shall be claimed for quotations, plans or other materials elaborated as part of the offer requested by us. Submission of an offer implies Contractor's consent to our transfer of his technical documentation for review to our engineering and other specialists (on terms of confidentiality and protection against unauthorized access) and his waiver of future claims related thereto. No documentation pertaining to the offer shall be returned.

### **14. Offers**

Supplier's offers shall be free of charge and non-binding for us. Offers shall be made in text format and bear a unique offer number.

### **15. Retention of Title, Transfer of Risk**

By accepting our order, Contractor waives any claims as to the retention of title for the items to be delivered. The transfer of title to Mironox takes place simultaneously with the transfer of risk (in accordance with the "DDP" delivery conditions as per INCOTERMS 2010). The risk of accidental loss or accidental damage to the Goods shall be only transferred to us at the delivery point indicated by us.

Retention of title by Supplier shall not be recognized.

### **16. Place of Fulfillment**

Place of fulfillment is the delivery address (destination) specified by Mironox.

### **17. Miscellaneous**

- a) Client reserves for himself, the end user and/or his control bodies the right to check the fulfilment of the deadlines, as well as to carry out interim and final technical inspections (control of packaging) in the offices, on the production and storage premises of the Contractor and his

- subcontractors throughout the planning, scheduling, production and pre-delivery stages and to reject the acceptance of faulty documentation or defective materials. These checks and inspections, however, shall not release Contractor from his responsibility described herein.
- b) Contractor shall ensure that the Goods and Services provided by him are free from any intellectual property rights of third parties (in particular, as regards industrial design rights, patent rights, etc.) and do not violate any existing boycott restrictions, sanctions or blacklisting regulations. Contractor shall indemnify and hold Mironox completely harmless against any claims or liabilities related thereto.
  - c) Supplier undertakes to cover the liability insurance against product-related risks and to provide proof of the completion and maintenance of such insurance upon request. In case an insurance claim becomes payable, Supplier shall assign to us in advance his claims against the insurance company. We are herewith accepting this assignment.
  - d) We do not accept any products containing the so-called "conflict minerals" pursuant to Sec. 1502 of the Wall Street Reform and Consumer Act, also known as the "Dodd-Frank Act". These include GOLD, TANTALUM, TIN and TUNGSTEN originating in the Democratic Republic of Congo or neighboring states – Angola, Burundi, the Central African Republic, the Republic of Congo, Rwanda, South Sudan, Tanzania, Uganda or Zambia (the "3TG minerals"). Supplier shall verify and certify that the Goods delivered are free from 3TG minerals.

## **18. Jurisdiction / Applicable Law**

The place of jurisdiction for any disputes arising directly or indirectly from this Contract shall be the court with competence over commercial matters located at HU-2900 Komárom. These General Terms and Conditions of Purchase shall be subject to the Law of Hungary, excluding the application of the UN-Convention on Contracts for the International Sale of Goods (CISG). We are also entitled to assert claims in the court having jurisdiction over the place of business of the Buyer. For cross-border deliveries, the exclusive place of jurisdiction for any disputes arising from this contractual relationship shall be Komárom, Hungary. We reserve the right to appeal to any other court that has jurisdiction under the EC Convention on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters as of 27 September 1968, or under EU Regulation 44/2001.

## **19. Final Provisions**

Documents designated for Contractor shall be sent to the address specified in this Contract. A delivery shall be considered as completed also in the case if Contractor has moved and the Client is not in a position to inform him in writing in a credible manner.

The invalidity of one or more provisions of these General Terms and Conditions of Purchase shall not impair the validity of any remaining provisions. The invalid provision shall be substituted by a valid provision of similar intent and economic impact that is compliant with the law.

In correspondence with Mironox, the full order number, the contract number, as well as the incoming registration number and date of the earlier correspondence shall be quoted.

## **20. Data Protection**

- 1.1. Buyer understands that we store data about him for the purpose of automatic processing (invoicing, accounting) related to the implementation of the Contract. No personal information beyond the data contained in the Contract shall be stored.
- 1.2. The stored data (name, telephone number, invoicing and delivery address, e-mail address, bank details, etc.) shall not be forwarded for any further purpose (e. g. for sending advertising materials/newsletters) without Buyer's express consent and shall not be disclosed to third parties.
- 1.3. Buyer is entitled to request the final deletion of such data. This request – either written or oral – may be submitted to us informally.

**March, 2018**

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