

OPTIMARE Systems GmbH - General Terms and Conditions ("GTC") of Purchase

1. General Provisions / Applicability

These GTC shall apply to the supply of goods and services/work performance provided by Seller to OPTIMARE Systems GmbH.

Our Purchase Orders as well as all supplies and services/work performances to/for us shall be placed and executed exclusively according to the following conditions. Any amendment or modification to any terms and conditions already stipulated in prior orders and/or included in Seller's order confirmation shall only be valid if this amendment or modification has been expressly accepted by us (even if there have been no contradictions nor reservations expressed beforehand on our part).

The contractual relationship between OPTIMARE Systems and Seller shall be subject to the following Agreements, in their consecutive order:

- Purchase/Service Agreement, incl. Annexes,
- these GTC of Purchase.

These GTC shall also apply to all future business between OPTIMARE Systems and Seller.

2. Purchase Orders and Calls for Delivery / Order Confirmation

Any and all orders/calls for delivery shall be made in writing. Any oral orders/calls for delivery as well as any additional oral agreements require our written consent.

Seller's offers, cost estimates and samples are free of charge and not binding for us.

We reserve the rights of ownership and exploitation of as well as the right to use all drawings, designs, technical calculations and other documentation forwarded to Seller. Aforementioned items shall be kept secret and not be disclosed to any third party unless expressly authorised otherwise in writing and shall be given back to us upon request.

Seller shall submit to OPTIMARE Systems an Order Confirmation without undue delay, however, 8 calendar days after receipt of said Purchase Order at the latest.

We reserve the right to change the Purchase Order within the usual scope of business acceptability until the supply/performance of services has been executed. In such case, the delivery dates and prices shall be adjusted accordingly.

3. Delivery / Shipping

Place of performance for all supplies and services executed by Seller shall be the point of destination specified by us. All supplies/services are "free (CIF) to point of destination". Goods shall be deemed to be supplied on the date of receipt and services/Work shall be deemed to be performed on the date of their acceptance at the point of destination determined. In case there is no point of destination determined, all supplies/services shall be executed at our premises.

Transportation is performed exclusively at cost and risk of the Seller. Goods shall be suitably packed and marked accordingly. Each delivery shall be accompanied by two delivery notes containing the following data: content/items of delivery, Purchase Order number and other purchasing details. In case the required documentation is not enclosed, we shall have the right to refuse the receipt and to return the goods at the expense and risk of Seller.

Deliveries will only be received on working days from Monday to Thursday from 08:00 am to 04:00 pm and on Friday from 08:00 am to 02:00 pm.

Partial deliveries as well as pre-deliveries are only allowed with our prior written consent. Number of units, their weights and measures are concerned, the values determined by us upon goods intake shall be binding, unless proved to the contrary.

Seller shall provide us in due time with all documentation required for customs clearance.

4. Delivery Times / Delay

The delivery times/times for performance specified in our Purchase Orders shall be binding.

Seller commits himself to notify OPTIMARE Systems promptly and in writing of any circumstances which will or may result in any delay of delivery or performance, indicating the causes for said delay.

Default in delivery does not presuppose a reminder. In case of default in delivery, we shall be granted all legal rights. The same rights we shall have in the event of repeated non-compliance of goods or services with the contractual requirements. In such cases we are entitled to make coverage purchases and any additional costs resulting from the default in delivery, such as, but not limited to, express transportation, incremental cost of labour/follow-up-work or additional purchase, shall be borne by Seller.

In the event that Seller fails for any reason whatsoever to effect delivery or service at the date agreed, we shall at our own discretion be entitled to decide whether to get compensation for the proven damage caused by default or to claim for liquidated damages of 1 percent of the Purchase Order amount per initial week of default, however, no more than 10% of the total Purchase Order amount.

The unreserved acceptance of late delivery/performance does not cause a waiver of any right arising out of these GTC, the Contract or the applicable laws.

5. Transfer of Risk / Documentation

The risk of damage to or loss of the goods shall pass on to OPTIMARE Systems only upon receipt at the point of destination; the transportation of the goods shall be the responsibility of Seller.

The complete documentation required in connection with the delivery, such as, but not limited to, delivery notes, shipping, inspection and customs documents, declarations of origin (which shall clearly allow tracing the goods back to their origin) shall be delivered together with the goods. Necessary expenses for acceptance or inspection shall be borne by Seller.

6. Property Rights

Seller shall ensure that OPTIMARE Systems irrevocably receives at least the unlimited, transferable rights to use and to exploit the services rendered and works performed by Seller, its employees, agents and subcontractors upon its respective accrual.

The transfer of aforementioned rights shall be fully compensated by the payment of the agreed price.

7. Prices / Settlement of Accounts, Payment

Agreed prices shall be fixed prices.

These prices include packaging, transport, transport insurance, VAT, customs duties and other taxes.

Seller shall submit to our address or the place determined by us commercial invoices in duplicate within 2 days upon receipt of goods/acceptance of services, for each complete delivery/service performance separately, specifying the relevant purchasing data and showing the amount of VAT.

Invoices received between the 1st and the 15th of a month will be paid on the 28th of the month and invoices received between the 16th and the last day of a month will be paid on the 13th of the following month in either case after deduction of 3 % cash discount, or at our own discretion 60 days after delivery/acceptance and receipt of invoice.

In the event the supply of goods/performance of services/work turns out to be deficient or incomplete, OPTIMARE Systems shall be entitled either to withhold payment (wholly or in part) until the contractual performance has been duly executed, or to claim our rights according to law.

OPTIMARE Systems is entitled to offset for claims or to exercise a right of retention within the legal scope.

8. Proprietary Rights / Transfer of Property

The transfer of property of the goods supplied shall take place upon their payment, unless a legal transfer of property has taken place before.

Any extended reservation of proprietary rights shall be valid only with our prior written consent.

In case we provide Seller with any parts, we shall reserve our proprietary rights to those parts. Said parts shall be processed and/or reconstructed by Seller for us. Should our goods subject to reservation be processed with others not belonging to us, we shall acquire the co-ownership of the new goods in proportion to the value of our goods to the value of the other goods at the time of processing.

Should the goods provided by us be inseparably mixed with others not belonging to us, we shall acquire the co-ownership of the new good in proportion to the value of our goods to the value of the other goods at the time of intermixture.

Should the processing or the intermixture be effected in such a way that Seller's good is to be considered the main good, it shall be deemed agreed that Seller shall transfer to us the co-ownership on a pro rata basis; Seller shall keep the sole property or the co-property as a trustee for and on behalf of us.

We shall reserve our property rights on any tools belonging to us; Seller commits himself to use our tools exclusively for the purpose of production of the goods ordered by us. Further, Seller commits himself to insure our goods at his own expense and to their original value for damages arising from fire, sprinkler or theft. He shall be obliged to effect at his expense in due time the maintenance and inspections required and he shall advise us without undue delay of any incidents which might occur. In case he wrongfully fails to comply with these commitments, we shall reserve the right to claim compensation for damages.

9. Quality / Compliance with Quality Standards

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Seller shall comply with the state-of-the-art, the safety standards as well as the specifications agreed upon. Any modification or amendment to the object of contractual performance as well as modifications to the production procedure, which could possibly affect their nature, suitability or other qualities, shall be only valid with our prior written consent.

In the event an inspection is required in compliance with Part-21, Part-145, ISO 9000 ff, Seller shall guarantee OPTIMARE Systems as well as the EASA and respectively the Federal Aviation Authority said audit after agreeing upon an appropriate appointment, and he shall also guarantee full support. Seller commits himself to keep all relevant documentation for the performance of deliveries and/or services open to the other party according to the statutory provisions.

Seller shall inform us about any unsuitability with respect to the goods to be delivered/services to be rendered/work to be performed for the purposes known by him as well as about any possible improvements.

With regard to service/work performance agreements, Seller commits himself to only engage qualified personnel, which will require our prior consent, so as to be able to meet at any time our quality requirements.

10. Spare Parts Supply

Seller guarantees the availability and supply of spare parts for any contractual item for at least 3 years after the last delivery of contractual goods.

11. Warranty

The acceptance of the goods, services and work performed shall be effected with the reservation that their completeness and correctness will still be checked.

Seller guarantees the faultlessness of the goods/services/work performed and the existence of warranted qualities, especially their compliance with design guidelines, specifications, instructions, samples, etc. as well as other characteristics and qualities mentioned in our Purchase Order; further, he guarantees that the supply meets the intended use, complies with the state-of-the-art and relevant laws as well as with official and other regulations, and does not infringe any third party rights.

The warranty claim shall be aimed – at our own discretion – either at correction or at substitution of delivery. Should correction or substitution turn out to be impossible, unreasonable or unsuccessful, we shall have the right of cancellation or the right of diminution, or else we shall be entitled to claim damages for non-performance. In urgent cases or in the event of delay, we shall be entitled to eliminate the damage ourselves at the expense of Seller.

Any and all costs arising in connection with the liability under a warranty, such as, but not limited to, assembly, dismantling, freight, packaging, insurance, customs duties and other official taxes, inspections and technical acceptance shall be borne by Seller.

We shall be entitled to effect any notification of defects after receipt of the goods/services/work performed and/or after their acceptance without consideration of periods of notification; Seller shall waive any objections in case of late notification of defect.

The warranty period shall end two years after the transfer of risk to us and/or after the acceptance of the goods or services. In the event the goods are put into operation only at a later time, the warranty period shall end two years after this time. The warranty period shall commence after each substitution delivery once again. In case the spare parts/parts to be delivered cannot be used in accordance with the contractual stipulations due to improvement work or installation of replaced/repaired parts, the warranty period shall be prolonged for a period equal to the period of interruption.

The warranty period shall end 24 months after supply of the goods produced by us to our customer, provided that these goods have been processed by us, and not later than 36 months after receipt of the goods at our premises or at the point of destination.

12. Liability / Indemnification

Seller shall be liable for all damages caused by him, his employees and/or his vicarious agents according to statutory provisions.

Should Seller and/or OPTIMARE Systems be liable to third parties, either exclusively or jointly and severally, Seller shall assume internally the sole responsibility and shall be liable for the compensation of any damage caused by his goods/services/works and shall indemnify us correspondingly.

In the event of a product liability case, Seller shall be obliged to hold us harmless from any third party's claim upon our first request.

Seller commits himself to maintain a business and product-liability insurance with sufficient coverage.

Seller guarantees, that the goods/services/works provided to OPTIMARE Systems do not infringe any third party's rights, such as industrial proprietary rights, patent and copyrights, trademarks, etc. Seller shall be liable and hold us harmless for all claims arising from violation of third party's rights in connection with his delivery of goods/services and performance of work.

Any costs arising from suitable measures to avoid or reduce a product liability risk (recall action of defective goods, etc.) shall be borne by Seller.

13. Force Majeure

Either of the Parties may be exempted from their contractual duties in case of severe, unforeseeable and unavoidable events caused by or resulting from acts of God or acts of government, war or war like operations, restrictions, prohibitions, priorities or allocations imposed by governmental authority, insurrections, for the duration and extent of said circumstances.

Seller is obliged to inform us about the occurrence of said events without undue delay, and he shall use his best endeavours to fulfil his contractual duties under consideration of the circumstances.

In such case, we are entitled to postpone our acceptance duties or to fully or partially withdraw from our contractual obligations after expiration of an appropriate term. Seller has no right to claim damages in such cases.

14. Confidentiality / Data Protection

Each party undertakes to keep secret any commercial and technical data, which have become known in connection with their common business activity and which are not determined to be published.

Seller shall not be allowed to disclose any information, such as, but not limited to, specifications, descriptions, drawings and design as well as samples, models, templates, matrixes, tools, etc., supplied to him or created by him in connection with our Purchase Order without our prior written consent. Any duplication/copying or production of identical or similar products shall only be allowed within the scope of internal company requirements and according to statutory provisions.

Any and all aforementioned items shall remain our property and shall be returned to us after completion of the order.

Seller shall not be allowed to transfer or pawn any item of our property.

Seller shall be entitled to use our company name for promotion purposes only with our prior written consent. This shall also apply for subcontractors, who shall be committed accordingly by Seller.

Seller commits himself – as well as his employees, vicarious agents and subcontractors – to comply with the German Data Protection regulations, especially with Article 5 of the German Data Protection Act.

We shall be entitled to process and store electronically Seller's data for our own purposes.

15. Deterioration of Seller's financial Position

Should Seller stop payments or the fulfilment of other contractual obligations or if a bankruptcy petition or a settlement proceeding has been filed with regard to Seller, we shall be entitled to either withdraw from the non-fulfilled part of the contract or to terminate the contract without notice due to severe grounds.

16. Governing Law / Place of Jurisdiction / Validity

These GTC shall be governed by and construed in accordance with the laws of the Federal Republic of Germany.

The terms and conditions set out in the United Nations Convention for the International Sale of Goods dated July 1st, 1964, and the respective German implementing law as well as the terms and conditions of the UNCITRAL-Convention dated April 11th, 1980 are hereby expressly excluded.

Place of jurisdiction is Bremen, Germany. However, we are entitled to take legal actions against Seller at his local court.

In the event that certain provisions of these GTC are not feasible or legally invalid or shall become so or are incomplete, this shall not affect the validity of the remaining conditions of these GTC.

Instead of the invalid or non-feasible provision a suitable regulation shall apply which is equivalent or comes closest to the invalid or non-feasible regulation. Missing regulations shall be bridged according to best judgement.

OPTIMARE Systems GmbH
Fischkai 1
D-27572 Bremerhaven
Germany
Phone +49 471 48361 - 0
Fax +49 471 48361 - 11
E-mail info@optimare.de
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