

**GENERAL TERMS & CONDITIONS OF PURCHASE**  
**of AMICRA Microtechnologies GmbH**  
(hereinafter "AMICRA")  
— Version: April 3, 2013 —

**1. Conclusion of contract:**

Orders from AMICRA and additions or changes to such orders require an order letter or a written confirmation from AMICRA to become binding. The components of the order are exclusive in the following order of precedence: the written order or confirmation from AMICRA, the specifications therein, the shipping regulations etc., these General Terms & Conditions, the general technical and health and safety standards that apply in the Federal Republic of Germany and the law of the Federal Republic of Germany, not including the UN Convention on the International Sale of Goods (CISG). Terms and conditions of the supplier that deviate from or add to the order must be accepted in writing by AMICRA to be valid.

The invalidity of individual provisions of the order does not affect the validity of the remaining provisions of the order. In place of the invalid provisions, the contracting partners shall agree a valid provision that comes as close as possible to the commercial purpose of the invalid provision.

If the supplier does not confirm AMICRA's order within three working days, AMICRA is free to withdraw the order at any time and in this case the supplier has no rights to the reimbursement of costs or compensation.

**2. Production control:**

The supplier shall ensure compliance with the agreed quality and other characteristics of the delivery item, and compliance with the delivery date by means of appropriate controls in its own factory or at its sub-contractor's premises. All records of inspection and acceptance must make it possible to identify the inspector of the assessed part.

AMICRA or a contracting partner of AMICRA may carry out quality or delivery deadline inspections at the supplier's premises or those of its subcontractor at any time during normal working hours.

The supplier shall meet the material costs of all inspections; staff costs shall be met by the party who incurs them.

**3. Acceptance test:**

If the parties have agreed to an acceptance test of the delivery item, it shall take place after the delivery item has been set up or installed in accordance with the purpose specified by AMICRA and after presentation of all technical and commercial documents to be provided by the supplier. At the request of AMICRA, representatives of the customer and of other suppliers of AMICRA may be present at the acceptance test. If the manufacture of the delivery item in accordance with the contract can only be ascertained in conjunction with another unit, the acceptance test shall take place in conjunction with the acceptance test for the other unit, even if the parts of the other unit have not been supplied by the supplier. The supplier shall provide binding notification to AMICRA of its readiness for the acceptance test in writing or by e-mail at least one week in advance. Section 2, paragraph 3 applies accordingly as far as the costs of the acceptance test are concerned. If the acceptance test is not successful, AMICRA's staff costs shall also be met by the supplier.

The completion of trial runs of the delivery item alone or with other units by AMICRA is not deemed to constitute an acceptance test, even if such trial runs are of lengthy duration (trial operation).

#### **4. Quality defects and defects of title:**

The supplier shall be responsible for ensuring that the delivery item has no defects that affect its value or suitability for the purpose intended by AMICRA at the time it is handed over and the acceptance test takes place. The supplier shall guarantee that the delivery item is fully functional both for its general purpose and for the specific use intended by AMICRA, and has the characteristics included in the order, in particular the technical specifications. The supplier shall also guarantee that, at the time of handover and of any agreed acceptance test, all statutory or officially prescribed inspections and acceptance tests for the item's general purpose and for the purpose intended by AMICRA have been completed and certificates issued. Overdeliveries and underdeliveries shall not be approved until they have been accepted in writing by AMICRA.

The period of limitation for making claims about defects is 24 months from transfer or an agreed acceptance test of the delivery item and the associated technical and commercial documentation. If the delivery item is intended to be fitted to another unit that is to be supplied by AMICRA to a third party, the period begins at the time at which the period of limitation for claims about defects begins for this other unit, on the basis of the contractual relationship between AMICRA and the third party. In the event of repair or replacement of a defective part, the period of limitation for claims about defects starts again for the entire delivery item. The period of limitation for claims relating to complaints about defects begins when the complaint is made and ends at the earliest on expiry of the agreed period of limitation for claims about defects.

If the delivery item is faulty or if it does not have a guaranteed characteristic, the supplier shall rectify the defect without delay at its expense by repair or redelivery at its discretion. AMICRA may insist on redelivery if the repairs suggested by the supplier seem unlikely to be successful or if the repair is unreasonable to AMICRA for any other reasons. Ownership, possession and risk of replaced parts shall be transferred to the supplier at the place of replacement on successful rectification of the defect.

If the supplier does not fulfill its obligations to rectify defects within an appropriate period set by AMICRA, if it refuses to rectify the defect, if the rectification is unsuccessful or unreasonable for AMICRA, AMICRA is entitled without further warning to rectify the defect itself or arrange for a third party to rectify it at the expense of the supplier, without affecting the supplier's other obligations to fulfill the contract with respect to the delivery item.

All costs arising in connection with the rectification of a defect at AMICRA, in particular for disassembly and fitting, packaging, transport and customs clearance, shall be met by the supplier.

The inspection and notification periods specified by § 377 of the German Commercial Code shall end at the earliest 15 days after acceptance of the delivery item.

AMICRA is entitled to lodge complaints about defects even before the period of limitation for claims about defects begins and to demand their rectification.

If third parties make claims against AMICRA on the basis of an alleged breach of commercial property rights or other rights of third parties, the supplier shall also indemnify AMICRA against any claims by third parties on this basis and against resulting costs and damage.

Overdeliveries and underdeliveries shall not be approved until they have been accepted in writing by AMICRA.

#### **5. Shipping regulations:**

The supplier shall ship the delivery item at the expense of AMICRA in accordance with the shipping regulations of AMICRA and taking account of other instructions given by AMICRA. The costs of loading and stowage on the means of haulage shall be met by the supplier. In the absence of any other agreement, the supplier shall ensure proper, cost effective packaging and shipping using materials that can be recycled. Shipping insurance is provided by AMICRA. For this purpose, the supplier shall notify AMICRA of shipping, including part shipping, of the delivery item at the latest on the day of delivery by means of a shipping advice. The supplier cannot raise objection to AMICRA's failure to take out shipping insurance.

## **6. Handover, transfer of risk and ownership:**

The handover of the delivery item shall take place on unloading at the location specified by AMICRA in the AMICRA factory, in the case of agreed installation on the date of the final installation report, in the case of an agreed acceptance test (section 3) only on the date of signature by AMICRA of the acceptance test report. The risk of accidental loss is transferred to AMICRA on handover, but not before the agreed delivery time.

Ownership of the delivery item is transferred to AMICRA on loading in the supplier's factory, at the latest on full payment.

## **7. Pricing and payment conditions:**

The prices are fixed prices and are understood to be ex works, packaged, including loading and stowage on the means of haulage, plus sales tax at the statutory rate.

Payments shall be made by bank transfer or check in the agreed currency within 14 days of receipt of the delivery item at the place specified, together with all the technical and commercial documentation, and of receipt of the invoice by AMICRA with a 2% discount, or within 30 days without a discount. In the case of an agreed acceptance test, the payment period begins on unreserved acceptance.

The assignment of the supplier's existing and future claims against AMICRA requires the consent of AMICRA. The supplier may only offset legally established claims or claims accepted in writing by AMICRA against claims by AMICRA.

## **8. Delivery period, cancellation, origin, spare parts:**

The delivery periods specified in the written order are binding. In case of doubt, they apply from the date of order. The delivery date is deemed to be the date on which the delivery item arrives at AMICRA in its entirety and in a condition that complies with the contract in accordance with the shipping regulations.

Technical and commercial documentation shall be supplied at the latest with the delivery item.

If complete delivery in accordance with the contract does not take place at the agreed delivery time, AMICRA is entitled without further warning to withdraw from the contract or to refuse to accept the service provided by the supplier or to insist on fulfillment. In any case, AMICRA has a right to compensation for the losses caused by the failure to fulfill the contract on time, which also includes the additional costs incurred in procuring replacements from third parties in the event of withdrawal from the contract or refusal to accept the service. As flat-rate compensation, AMICRA may demand an amount of 5% of the value of the order for each week that commences after the delivery period has expired; the supplier may demand a reduction in the flat rate if it can demonstrate that the losses incurred by AMICRA are lower.

The supplier shall notify AMICRA in writing if it can foresee that there will be a delay in delivery, and shall indicate the reason and duration of the probable delay at the same time. It shall also take all necessary measures to rectify the cause of the delay at its own expense and shall keep AMICRA informed promptly.

AMICRA is also entitled to cancel the order at any time. In this case, the supplier has a right to reimbursement of the direct manufacturing costs that can be demonstrated to have been incurred by it up to that point, plus a surcharge for general costs and profit of 15% of the demonstrated manufacturing costs. Payment shall match the release of the delivery item or the materials purchased or manufactured for it in the condition they were in at the time of the cancellation.

The supplier shall provide notification of the origin of the original goods on delivery by means of the so-called supplier's declaration.

The supplier undertakes to provide spare parts for the duration of the likely technical use, but for a minimum of 8 years from delivery, under appropriate conditions. If the supplier intends to cease manufacturing or trading in the spare parts, it shall notify AMICRA and provide information about the last possible order date with sufficient notice to enable AMICRA to determine its own spare parts requirements and those of its customers.

#### **9. Rights to documents, etc.:**

All documents, samples, models etc. provided to the supplier shall remain the property of AMICRA. They may only be used for the purpose of orders and must be returned on demand by AMICRA at any time. Copies may only be made with the consent of AMICRA. They are the property of AMICRA; clause 2 applies to them accordingly. The provisions about copies also apply to models and other objects manufactured in accordance with AMICRA's documents. All of these documents and other items, the order and any other verbal or written information from AMICRA must be treated in the strictest confidence by the supplier. AMICRA can only accept liability for errors or incomplete information if they are the fault of AMICRA and they would not be identifiable by the supplier even on careful expert inspection.

Completion or partial completion of an AMICRA order by and the provision of AMICRA documents to third parties is only permitted with prior consent from AMICRA.

The transfer of rights or the granting of rights of use is in no way associated with the order or provision of documents or objects or with the communication of other information.

#### **10. Limitation of liability:**

The supplier is not liable for loss of earnings by AMICRA if the loss is only the result of minor negligence.

#### **11. Electrical and Electronic Equipment Act**

If and insofar as the law on the marketing, return and environmentally friendly disposal of electrical and electronic equipment (Electrical and Electronic Act) in its current version should apply, the statutory provisions take precedence over any contradictory contractually agreed provisions.

#### **12. Advertising:**

Advertising involving reference to the business relationship with AMICRA is only permissible with the prior written consent of AMICRA, which may be withdrawn at any time.

### **13. Place of performance**

The place of performance for delivery of the delivery item is the place to which it is to be shipped. The place of performance for the supply of technical or commercial documents and for payments is the registered office of AMICRA

### **14. Court of jurisdiction:**

The court of jurisdiction for all disputes relating to the order or its legal force is Regensburg, if the supplier is a merchant. If the supplier's registered office is not in the Federal Republic of Germany, Regensburg is also the court of jurisdiction. AMICRA also has the right to take action at the location of the main business office of the supplier or of the office of the branch with which the order was placed.

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