

## **General Terms and Conditions of Business for Purchasing – Austria, version 14<sup>th</sup> of September 2018**

### **I. Scope of Application**

1. The goods, services and offers of suppliers to Advanced Digital Network Distribution GmbH Austria (hereinafter known as ADN) shall be rendered solely on the basis of the following General Conditions of Purchase. These constitute an integral part of all contracts we enter into with our suppliers for the goods and services offered by them to the Principal, even if they are not agreed again separately.
2. ADN shall not recognise the Supplier's terms and conditions of business if they are contrary to, or differ from, the General Conditions of Purchase of ADN, unless ADN has expressly granted its consent in writing. The General Conditions of Purchase of ADN (hereinafter known as GPT's) shall also apply even in those cases in which ADN accepts goods and services without reservation in the knowledge that the Supplier's terms and conditions are contrary to, or differ from, his own GPT's.

### **II. Conclusion of the contract**

1. In so far as our offers do not contain an express commitment for a specific length of time, we shall honour them for a period of one week after the date on the offer. It shall be the date on which we receive a statement of acceptance of our offer that shall determine whether acceptance has been made on time.
2. ADN shall be entitled to withdraw from an order up until two weeks before the contractually agreed delivery date without incurring any expenses as a result, provided that the ordered goods are standard products and not products made to our specifications.

### **III. Price, Terms and Conditions of Payment and Invoicing**

1. The price shown in the order is binding. We shall not accept any sliding price clauses and price amendment clauses.
2. In the absence of a written agreement otherwise, the price shall include delivery and transport to the delivery address stated in the contract including packing.
3. In so far as under the agreement made the price does not include packing and the remuneration for the packing – provided not only on a loan basis – has not been expressly specified, it is to be invoiced at proven cost price. At our request the Supplier shall have to take back the packaging.
4. Provided that nothing has been agreed otherwise, we shall pay the purchase price within 14 days from the delivery of the goods and receipt of invoice to qualify for a prompt payment discount of 3% or within 30 days net. The receipt of the remittance instruction at our bank shall satisfy the requirement to prove that payment owed by us has been made on time.
5. In the event of default in payment, we shall owe default interest amounting to five percent above the base rate in accordance with Section 247 of the German Civil Code [BGB].

#### **IV. Delivery period and Delivery, Passing of risk**

1. The delivery time stated in the order (Delivery date or period) is binding. Early deliveries are not allowed.
2. The Supplier shall be obliged to inform us in writing without undue delay if circumstances arise or become apparent as a result of which it will not be possible to observe the delivery time.
3. If the last day on which the consignment has to be delivered is specified as a result of the contract, the Supplier shall consequently find himself in default if he has not delivered by this day, without us having to send him a reminder.
4. In the event of a delay in delivery, we shall be entitled to our statutory rights in full, including the right to withdraw from the contract and to claim compensation for damages instead of performance after a reasonable subsequent period of time allowed for performance has expired without the goods being delivered.
5. If the Supplier is in default with deliveries, and having already threatened him in writing that we shall invoice him a contractual penalty, we shall be entitled to demand a contractual penalty amounting to 0.5% of the order value for each new week commenced of default in delivery up to a maximum of 5% of the order value. The contractual penalty is to be counted towards the default damages to be reimbursed to us by the Supplier.
6. The Supplier shall not be entitled to deliver part consignments without our consent.
7. The risk shall only pass over to us if the goods have been handed over to us at the agreed destination, even if dispatch had already been agreed.

#### **V. Warranty**

1. In the event that there are defects we shall be entitled to our statutory rights in full. Notwithstanding this, the warranty period shall however be 36 months.
2. Quality and quantity discrepancies will in all cases have been notified on time if we notify the Supplier within 10 working days from the receipt of goods. Concealed quality defects shall likewise have been notified on time if the Supplier is notified within 15 working days from discovery.
3. We shall not waive our rights under warranty by taking delivery of, or approving submitted samples or specimens.
4. The period of limitation shall be suspended when the Supplier receives our written notification of defects. The warranty period shall begin from the start for replacements supplied and rectified defects, unless we would have had to assume, given the Supplier's conduct, that he did not consider himself under an obligation to take such measures, but only supplied a replacement or rectified the defect to be accommodating or similar reasons.

## **VI. Property rights**

1. The Supplier vouches that no third party property rights shall be breached in countries of the European Union, North America or other countries in which he manufactures the products or has them produced.
2. The Supplier is obliged to exempt us from all claims asserted by third parties against us on account of the breach of property rights named in paragraph 1 above, and to reimburse us for all necessary expenditure in connection with these claims. This right shall exist regardless of whether the Supplier is to blame.

The Supplier is not entitled to assign his claims under the contract to third parties. This shall not apply in so far as they concern claims for money.

## **VII. Assignment**

The Supplier is not entitled to assign his claims under the contract to third parties. This shall not apply in so far as they concern claims for money.

## **VIII. Data privacy information, Place of fulfilment, Place of jurisdiction, Applicable law**

1. Information about the processing of personal data by ADN are available at any time under [www.adn.de/at/datenschutz](http://www.adn.de/at/datenschutz).
2. The place of fulfilment for both Parties and sole place of jurisdiction for all disputes arising from the contract is Vienna (Wien).
3. The contracts entered into between us and the Supplier shall be governed by the law of the state of Austria. The United Nations Convention on Contracts for the International Sale of Goods [CISG] shall not apply.