

# General Terms and Conditions of AdvanIDe Europe GmbH relating to Purchasing As at August 2017

## I. Scope of the terms and conditions

1. The General Terms and Conditions of AdvanIDe Europe GmbH, Am Klingenberg 6a, 65396 Walluf, Germany (hereinafter referred to as "ADVANIDE") relating to Purchasing shall apply to all contracts concluded between ADVANIDE and the supplier, unless agreed otherwise. Terms and conditions that diverge from the General Terms and Conditions of ADVANIDE or provisions of the supplier that have a contract-modifying effect are hereby revoked. This shall also apply, in particular, if the supplier's offer is made or acceptance of the order by the supplier (acknowledgement of the order) occurs with reference to the supplier's General Terms and Conditions of Business or Sale.
2. These General Terms and Conditions shall also form the basis for all future transactions between ADVANIDE and the supplier.
3. The legislation in force and, in the case of international contracts, the Uniform Customs and Practices for Documentary Credits (UCP) shall otherwise also apply, in the version applicable at the time in question.

## II. Orders, scope of goods or services supplied

1. The respective contract shall become effective, with the contents of the order by ADVANIDE, subject to the right of ADVANIDE to amend the order (delivery time, order volume, etc.), unless the supplier rejects it within 5 working days of receipt of the order.
2. If the order acknowledgement deviates from the order, ADVANIDE shall only be bound if it has agreed to the deviation in writing.
3. Amendments or supplements to the order shall only be valid if they are confirmed by ADVANIDE.
4. ADVANIDE reserves unlimited rights of ownership and copyright in respect of the use of drawings and other documents, which may only be made accessible to third parties with the express prior written agreement of ADVANIDE. They are to be used solely for production on the basis of the order; after the order has been processed or if the order does not become effective, they must be returned to ADVANIDE without any request for their return being necessary.
5. The supplier shall only be entitled to arrange for execution of the order or parts thereof by independently operating third parties with prior written approval.

## III. Price

The price shown in the order shall be binding. In the absence of written agreements to the contrary, the delivery price shall be deemed to be "free house" to the delivery address specified in the order, including packaging and insurance. Delivery notes in triplicate are to be enclosed with each delivery. All the shipping documents and delivery notes must specify the contents of the consignment and the order number of ADVANIDE.

## IV. Taxes

1. The supplier shall pay all taxes, levies, or duties payable in its residential country associated with payments by ADVANIDE and its affiliates to supplier, whether based on gross revenue, the delivery, possession or use of the contractual goods or otherwise. Notwithstanding the following provisions, each party shall be responsible for managing its individual tax liabilities, including all taxes, levies, assessments, governmental charges.
2. ADVANIDE shall be entitled to withhold tax from the stipulated remuneration (price) if and to the extent required under the laws of the jurisdiction in which it is resident. If ADVANIDE paid the full amount to the supplier without withholding any taxes and if it turns out that the remuneration was subject to a withholding tax and ADVANIDE has to pay it to the German tax authorities, the supplier is obliged to repay ADVANIDE the respective withholding taxes. The parties shall co-operate to obtain an exemption certificate or similar document required by the tax authorities to relieve ADVANIDE from the withholding obligation and/or to refund any taxes already withheld and remitted by ADVANIDE on the supplier's behalf. In particular ADVANIDE shall, at the supplier's first request, make any filings and execute any documentation required to obtain such certificate or similar document. In case any taxes are paid by ADVANIDE on behalf of the supplier ADVANIDE shall submit a tax receipt certificate to the supplier.
3. The payments hereunder are exclusive of any VAT that either party is obliged by law to charge the other. ADVANIDE is responsible for its VAT liabilities in its residence state which arise from the sales contract. The supplier is obliged to issue invoices in a manner that is in line with the requirements imposed by the applicable laws of the country/ countries where the services rendered falls within the scope of VAT, particularly in accordance with the German Value Added Tax Code (UStG). In case the services mentioned in the contract are also subject to VAT in the state of residence of the supplier and if ADVANIDE cannot recover such foreign VAT, the supplier pays and bears this VAT liability; if ADVANIDE can recover the foreign VAT in the residence state of the supplier, ADVANIDE is responsible for the foreign VAT. The supplier shall assist ADVANIDE recovering the paid foreign VAT.

## V. Cancellation

If the order is cancelled by ADVANIDE, without any default of delivery by the supplier, ADVANIDE shall pay the supplier the balance of the agreed remuneration corresponding to the goods or services that have already been supplied and compensate the supplier for the expenses incurred by the supplier as a result of the order, on presentation of evidence of the expenses in question.

## VI. Retention of title by ADVANIDE

1. If ADVANIDE supplies parts to the supplier, this shall be subject to the retention of title. The parts shall be processed or converted by the supplier for ADVANIDE. If the goods subject to the retention of title are transformed or converted with other articles that do not belong to ADVANIDE, the latter shall acquire joint ownership of the new article in proportion to the ratio between the value of the goods to which title is retained to the value of other transformed or converted articles at the time of

transformation or conversion.

2. If the article supplied by ADVANIDE is inextricably mixed with other articles that do not belong to ADVANIDE, the latter shall acquire joint ownership of the new article in proportion to the ratio between the value of the article to which title is retained to the value of the other articles introduced at the time of mixing. If the mixing is carried out in such a way that the article of the supplier is to be regarded as the principal thing, the supplier shall transfer joint ownership to ADVANIDE on a proportional basis; the supplier shall preserve sole ownership or joint ownership for ADVANIDE.
3. If third parties claim the property of ADVANIDE, the supplier shall be obliged to point out that it belongs to ADVANIDE and inform ADVANIDE of such acts without delay. Any costs incurred by ADVANIDE in connection with the prevention of such acts shall be repaid by the supplier.

## VII. Retention of title by the supplier

1. The supplier shall be obliged to inform ADVANIDE in writing if goods are supplied subject to the retention of title.
2. If the retention of title is duly reported, the following provisions shall apply: prior to the transfer of ownership, the supplier shall permit ADVANIDE to dispose of the delivered goods in the normal course of business. If the goods of ADVANIDE are combined with other articles to form a single article prior to the transfer of ownership and if the new article is to be regarded as a principal thing, ADVANIDE shall be obliged to transfer proportional joint ownership of the new article to the supplier, in so far as the principal thing belongs to the supplier. If ADVANIDE resells the delivered goods in a way that is in keeping with their intended purpose, it shall, by the very fact of doing so, immediately assign to the supplier the claims against its customer and all subsidiary rights arising from the sale until all the claims have been met. The supplier shall release the securities held by it in so far as their value exceeds the value of the claims being secured by over 10% in total.

## VIII. Terms and conditions of payment

1. Unless agreed otherwise, payments shall be made within 60 days on a strictly net basis or within 30 days with a 3% discount. The timeliness of payment shall depend on the time when ADVANIDE issues the order to pay.

The payment period shall start to run as soon as the goods or services have been supplied in full and an invoice bearing the order number shown in the order has been duly issued and received.

A discount may also be deducted if ADVANIDE performs offset or withholds payments in an appropriate amount as a result of defects; the payment period shall start to run on full rectification of the defects.

2. ADVANIDE shall have the setoff and retention rights specified by law.

## IX. Period for the delivery of goods or services

1. The timeliness of deliveries of goods shall depend on arrival at the point of receipt or use specified by ADVANIDE within the agreed delivery period and the timeliness of services shall depend on their acceptance by ADVANIDE within the agreed performance period.
2. The supplier shall be obliged to immediately inform ADVANIDE in writing if events occur or become known to the supplier that will make it impossible to observe the agreed delivery period.

Operating disturbances suffered by sub-contractors, energy or raw materials shortages, traffic disturbances, in so far as such events were not foreseeable and avoidable and strikes, lockouts, acts of government and cases of force majeure shall release the affected party from the obligation of delivery or acceptance for the duration of the disturbance within the limits of their effects. If delivery or acceptance is delayed for more than 1 month as a result of this, either party shall be entitled, to the exclusion of any further claims, to cancel the contract in respect of the quantities affected by the interruption of delivery or acceptance. This shall not apply to liability in the case of action by intent or gross negligence.

3. If this period is not met for reasons that fall within the area of risk borne by the supplier, ADVANIDE may claim flat-rate compensation for each full week of delay amounting to 1% of the value of the delivery. The compensation shall be limited to no more than 5% of the total value of the order. The supplier shall be entitled to provide ADVANIDE with proof that ADVANIDE has not suffered any loss or has only suffered a minor loss as a result of the delay that has occurred.
4. ADVANIDE reserves the right to claim additional compensation if it proves that it has suffered a greater loss as a result of a delay that is the fault of the supplier. A contractual penalty incurred in accordance with paragraph 3 shall be offset in such a case.
5. The right of ADVANIDE to cancel the contract or claim damages after a reasonable period of grace granted to the supplier has elapsed without any action being taken shall remain unaffected by this.
6. If there is default in acceptance by ADVANIDE, the supplier shall be entitled to reclaim the additional expenditure incurred in respect of the underlying order, which shall, however, not exceed the amount of the purchase price specified in the underlying contract. ADVANIDE shall be entitled to provide the supplier with proof that the supplier has not suffered any loss or has only suffered a minor loss as a result of the delay that has occurred.

## X. Transfer of risk

1. In the case of services, the risk passes on acceptance and in the case of goods on arrival at the point of receipt or use specified by ADVANIDE. The supplier shall be obliged to clearly and accurately specify the order number of ADVANIDE on all shipping documents and delivery notes; if it fails to do so, delays in processing shall be deemed not to be the fault of ADVANIDE.

# General Terms and Conditions of AdvanIDe Europe GmbH

## relating to Purchasing

### As at August 2017

2. If delivery is delayed at the request of ADVANIDE or if there is default in acceptance by ADVANIDE, the supplier shall be obliged to make a claim under the insurance requested by ADVANIDE at the request and expense of ADVANIDE.

#### XI. Acceptance

Delivered articles shall only be accepted by ADVANIDE if they do not give rise to any complaints.

#### XII. Warranty and termination

1. The supplier shall be obliged to carry out quality assurance measures and quality inspections. The inspection of incoming shipments by ADVANIDE shall therefore be limited to checking incoming deliveries against the order using the delivery note, the specified quantity and the marking on the packaging and the goods.
  2. The goods must match the respective state of the art and the agreed quality provisions. The supplier undertakes to observe all the export control provisions laid down by the law of Germany and other countries that are applicable in connection with the delivery. The supplier shall supply ADVANIDE with documentary evidence of origin at the request of ADVANIDE if a good reason for such a request is given.
2. ADVANIDE shall be entitled to statutory warranty rights without restriction; independently of such rights, ADVANIDE shall be entitled to demand the correction of faults or replacement (reperformance) at its discretion. If reperformance fails, is refused or cannot be reasonably expected, ADVANIDE shall also be entitled to claim reduction of the purchase price or cancel the contract. ADVANIDE shall also be entitled to claim damages, including compensation for loss instead of fulfillment and compensation for the expenditure it has uselessly incurred.
4. In so far as the supplier issues a seller's warranty and/or a manufacturer's warranty, without prejudice to the aforementioned rights, the details shall be obtained from the warranty conditions that are enclosed with the goods delivered in each case.
  5. If the supplier fails to fulfil a warranty claim by ADVANIDE within a reasonable period, which as a rule shall have a duration of 14 days, ADVANIDE shall be entitled to claim flat-rate compensation of 1% of the value of the delivery for each full week of delay for each day by which fulfillment of the warranty claim is delayed, without prejudice to the provisions contained in § VIII par. 3. This shall apply mutatis mutandis if the correction of faults is delayed because the supplier culpably suspends the correction of faults. The compensation shall be limited to no more than 5% of the total value of the order. The supplier shall be entitled to provide ADVANIDE with proof that it has not suffered any loss or has only suffered a minor loss as a result of the delay that has occurred.
  6. In the case of successive delivery contracts, ADVANIDE may cancel the entire order if at least two deliveries are wholly or partially made with the same faults. Unless agreed otherwise, ADVANIDE shall be entitled, in the case of a continuous obligation with the continuous provision of goods or services, to terminate it with one week's notice without giving reasons. Until an order is completed, ADVANIDE shall be entitled to terminate it at any time, with immediate effect.

#### XIII. Liability – indemnification – third-party insurance

1. In so far as the supplier is liable for damage caused by a product under statutory product liability, it shall be obliged to indemnify ADVANIDE against claims for damages by third parties at the first request. This shall also apply if action is taken against ADVANIDE on the basis of statutory product liability in respect of goods supplied by the supplier. As part of its liability for losses under sentences 1 and 2, the supplier shall also be obliged to repay any expenses incurred as a result of or in connection with a recall action carried out by ADVANIDE. Other legal claims shall remain unaffected by this.
2. The supplier undertakes to maintain product liability insurance with a sum insured of €5.0 million per person/claim on an all-inclusive basis. If ADVANIDE is entitled to make other contractual and/or legal claims for damages, they shall remain unaffected by this.

#### XIV. Restriction of liability of ADVANIDE

1. ADVANIDE shall be liable to the supplier for losses that have been suffered only in so far as ADVANIDE is guilty of acting with intent or gross negligence. This shall not apply to liability for losses resulting from injury to life, person or health. In addition, ADVANIDE shall be liable for the damage that is typically foreseeable in respect of losses that are caused by ADVANIDE or the vicarious agents of ADVANIDE as a result of infringement of a substantial contractual obligation.
2. This limitation of liability shall apply to all claims for damages, regardless of their legal basis, in particular including claims arising from preliminary or accessory contracts.
3. Claims for damages by the supplier must be legally asserted within one year of the coming into existence of the claim. This shall not apply in the case of action with intent or to liability for losses resulting from injury to life, person or health.

#### XV. Assignment of claims

Claims may only be assigned with the written agreement of ADVANIDE.

#### XVI. Industrial property rights and confidentiality

1. In so far as the goods to be delivered and/or services to be provided are covered by industrial property rights of the supplier (patent or trademark rights, copyrights, utility-model patent or design patent rights or database or other industrial property rights), the supplier shall grant ADVANIDE a right of use that is unlimited in terms of time, territory and subject-matter.
2. The supplier guarantees that no industrial property rights of third parties in Germany or any other countries shall be infringed as a result of the delivery of its goods to ADVANIDE and their utilisation and/or as a result of the provision of its services. The supplier shall, on the first written request, indemnify ADVANIDE and the customers of ADVANIDE against any claims made by third parties as a result

of the infringement of such industrial property rights. ADVANIDE shall not be entitled to conclude any agreements, in particular any settlement, with a third party that are to the detriment of the supplier, without the supplier's agreement. The indemnification obligation incumbent on the supplier shall relate to any expenses incurred by ADVANIDE as a result of or in connection with a claim made by a third party.

3. ADVANIDE and the supplier shall immediately inform one another if third parties make any claims regarding the infringement of industrial property rights as a result of the delivery of goods or the provision of services.
4. The supplier shall be obliged to treat all orders from ADVANIDE and all the associated commercial and technical details as business secrets. This shall also apply to illustrations, drawings, calculations, etc. received by the supplier in connection with the orders by ADVANIDE. The supplier shall likewise impose this obligation to maintain confidentiality on its assistants and vicarious agents.

Third parties may only be granted access to confidential information with the prior written agreement of ADVANIDE.

The obligation to maintain confidentiality shall continue to apply after expiry of the contract. The obligation to maintain confidentiality shall continue to apply for a period of 2 years following expiry of the contract.

#### XVII. Job protection, accident prevention and safety; conversions of products and processes

1. The supplier shall be obliged to observe the relevant legislation and regulations relating to job protection, accident prevention and transport and plant safety (and ADVANIDE's own general and site-specific rules), maintain an effective management system in the specified areas and supply ADVANIDE with appropriate proof of this or permit inspection by ADVANIDE on request.
2. Suppliers with which ADVANIDE has permanent business links shall be obliged to inform ADVANIDE at an early stage if they intend to convert products or processes in a way that will affect the goods or services purchased by ADVANIDE.

#### XVIII. Disposal of electrical and electronic equipment

The supplier commits to comply with the relevant versions at any one time of the European code regarding the bringing into circulation, the take-back and the ecological disposal of electrical and electronic equipment (e.g. ElektroG), the Directive 2002/96/EC on waste electrical and electronic equipment of the European Parliament and of the Council and the Directive 2002/95/EC on the restriction of the use of certain hazardous substances in electrical and electronic equipment of the European Parliament and of the Council, even so if these regulations do not apply to the supplier according to their legal application area. The supplier separately assumes the contractual obligation to take back and dispose all electrical and electronic equipment delivered by him without costs. Take-back is performed, if no deviating terms are agreed upon, at the discretions of ADVANIDE either by pick up of the equipment at the premises of the ADVANIDE or at a common collection point or at the premises of customers of ADVANIDE. Alongside the supplier commits himself to indemnify ADVANIDE for all claims of third parties including public fees and charges that ADVANIDE arise out of the failure to comply with the foresaid statutory and contractual provisions.

#### XIX. Place of jurisdiction, applicable law, place of performance

1. Unless this conflicts with mandatory provisions of the law, the place of jurisdiction for any disputes between the supplier and ADVANIDE shall either be Walluf or the place of establishment of the supplier, at the discretion of ADVANIDE, but Walluf shall be the exclusive place of jurisdiction for any action brought against ADVANIDE.
2. The contractual relationship shall be exclusively subject to the law of Federal Republic of Germany to the exclusion of the UN Sales Convention (United Nations Convention on Contracts for the International Sale of Goods) and to the exclusion of the conflict of laws provisions of German law.
3. Unless the order implies otherwise, the place of performance shall be the location AAITG Warehouse, Walluf, Germany.
4. The English version of these general terms and conditions is for information purposes only. Only the German wording of the contract shall be binding.

#### NB:

The supplier notes that ADVANIDE will store and process data, including commercially relevant personal data, arising from the contractual relationship under §28 Federal German Data Protection Law (BDSG) for data-processing purposes.