

## Purchasing Terms and Conditions

### 1 Purchase order and acknowledgement of order

- 1.1 Wincor Nixdorf shall be entitled to cancel the purchase order in writing if Supplier fails to accept it in writing within two weeks of receipt (acknowledgement).
- 1.2 If the acknowledgement of order differs from the purchase order of WINCOR NIXDORF, it shall be binding on WINCOR NIXDORF only if it has accepted such deviation in writing. Any general terms and conditions of the Supplier shall be binding on WINCOR NIXDORF only insofar as they comply with its own Terms and Conditions or have been approved by it in writing. The acceptance of supplies or services or their payment shall not imply such approval.
- 1.3 Any modification of or amendment to the purchase order shall only be effective if confirmed by WINCOR NIXDORF in writing.
- 1.4 The Supplier shall deliver its supplies and perform its services unencumbered by third party rights.

### 2 Time of delivery

- 2.1 On-time delivery involving supplies only shall be calculated on the basis of arrival at the point of destination specified by WINCOR NIXDORF. In the case of deliveries including installation or assembly as well as the provision of services, such calculation shall be based on satisfactory acceptance testing.
- 2.2 If a delay in the delivery of supplies or the provision of services is anticipated, WINCOR NIXDORF shall be immediately informed and asked to make a decision on the matter.

### 3 Transfer of risk and Delivery

- 3.1 In the case of deliveries including installation or assembly and in the case of services, the risk shall be transferred upon acceptance testing. The transfer of risk attaching to deliveries without installation or assembly shall take place upon receipt at the point of destination specified by WINCOR NIXDORF.
- 3.2 Unless otherwise agreed, shipping costs as well as the cost of customary packing shall be charged to Supplier. Where the price is quoted ex works or ex Supplier's distribution center, shipment shall be effected at the lower cost insofar as no other form of transport has been specified by WINCOR NIXDORF. Any extra cost incurred due to nonconformance to a shipping specification shall be borne by Supplier. Where the price is quoted free to recipient, WINCOR NIXDORF shall likewise be entitled to determine the method of shipment. Any extra cost incurred for expediting shipment to meet a given delivery date shall be borne by Supplier.
- 3.3 Each shipment shall include packing lists or delivery notes giving details of the shipment and complete order references. Supplier shall immediately advise WINCOR NIXDORF of shipment, indicating the same data.
- 3.4 In case deliveries are made directly to a customer or to a sub-supplier of WINCOR NIXDORF the delivery note has to indicate precisely that delivery is made on behalf of WINCOR NIXDORF.

### 4 Acceptance

- 4.1 Acknowledgement of receipt of products by WINCOR NIXDORF at time of delivery shall not constitute acceptance of products.
- 4.2 The products must comply with all descriptions, characteristics and specifications stated in the order or agreement as well as all health, safety and other applicable laws and regulations in force.
- 4.3 Supplier must perform sampling inspection in order to ensure that the products meet applicable industry standards and comply with WINCOR NIXDORF's Quality Agreement or such other standards as agreed upon by the parties.

### 5 Software

The Supplier shall grant WINCOR NIXDORF, its associated companies and dealers a non-exclusive and non-assignable right, without any restriction as to time and place, to copy, transfer, market, rent, lease, re-lease and sub-license programs. WINCOR NIXDORF and its associated companies shall have the right to allow third parties (inter alia leasing companies) to rent, lease or re-lease the programs to end users. This licensing right shall only relate to the object code for use as a part or for improvement of Deliverables that have been supplied, distributed, rented or leased to end users. WINCOR NIXDORF, its associated companies, and resellers shall be allowed to use the programs contained in products for their own business purposes, for example for demonstration and training purposes, or as otherwise agreed between the parties.

### 6 Invoices

Invoices shall indicate the order reference and the numbers of every single item. Invoices shall not be payable until this information is provided. Copies of invoices shall be marked as such.

### 7 Payment

- 7.1 Unless otherwise agreed, payment shall be effected:
  - within 14 days less 3% discount
  - or within 30 days less 2% discount
  - or within 90 days net.
- 7.2 Any applicable payment period shall be calculated from the date the supplies or services have been fully completed and a duly issued invoice is received. The above discounts shall apply even if WINCOR NIXDORF offsets payments against receivables or withholds payments in a reasonable amount due to defects found. The discount period shall be calculated from the date following correction of said defects.
- 7.3 Any payments made shall not imply acceptance of supplies or services hereunder.

### 8 Intellectual Property Warranty and Indemnity

- 8.1 Supplier warrants that it is the legal and beneficial owner of all patents, trademarks and other intellectual property rights in the products or any part thereof and that the products supplied do not contravene any intellectual property rights belonging to a third party and that WINCOR NIXDORF shall be entitled to use and sell the products both locally and abroad.
- 8.2 Supplier shall defend and indemnify WINCOR NIXDORF and its associated companies, contractors, subcontractors, customers and their respective successors and assigns (the "protected parties") against all claims and losses and shall compensate for all damages (including reasonable attorney's fees) resulting directly or indirectly from any infringement, or alleged infringement, of any third party intellectual property right, caused by using, producing, selling or sub-licensing Supplier's products; subject to the following conditions:
  - (a) WINCOR NIXDORF must notify Supplier in writing without undue delay of any allegation of infringement against them or other protect parties;
  - (b) WINCOR NIXDORF must not make any admissions without Supplier's prior written consent; unless Supplier does not react within a reasonable time upon such requests by WINCOR NIXDORF;
  - (c) WINCOR NIXDORF must, at Supplier's request, allow Supplier to conduct and/or settle all negotiations and litigation and must give Supplier all reasonable assistance. The costs incurred or recovered in such negotiations and litigation will be paid or received by Supplier.
- 8.3 If at any time any allegation of infringement of any third party Intellectual Property Rights is made or, in Supplier's opinion, is likely to be made, Supplier shall at its own expense and upon its choice:
  - a) modify or replace such part of the product as it considers necessary so as to avoid the infringement. Any replacement must offer equivalent performance and not violate any third party Intellectual Property Rights; or
  - b) procure the right for WINCOR NIXDORF to continue using the product.
- 8.4 If despite WINCOR NIXDORF having set a reasonable time limit for Supplier, and after lapse of said time the infringement is not eliminated, or if above rectification attempts fail, WINCOR NIXDORF shall, at its own discretion, be entitled to:
  - a) reasonably reduce the purchase price; or
  - b) withdraw the respective Order and demand repayment of price or service fee whereas a reasonable sum shall be deducted for the previous use, taking into consideration the expected economic life-time of the software.
- 8.5 The Indemnity in Clause 8 shall apply to Supplier unless Supplier can provide evidence that WINCOR NIXDORF or any other protected party is solely responsible for infringing upon the third party's Intellectual Property Rights (through unauthorised modification, combination with other products or services not reasonably foreseeable or similar).

### 9 Warranty

- 9.1 Claims shall be statute-barred within 24 months upon transfer of risk (3.1), except for cases of fraudulent concealment of a defect or guarantees for certain qualities.
- 9.2 The warranty period for supplies delivered to WINCOR NIXDORF's jobsites outside its plants or workshops shall be calculated from the time the supplies are successfully tested and accepted by WINCOR NIXDORF's customer.

Intermediate or temporary tests or the final acceptance test do not relieve the Supplier from its warranty obligations.
- 9.3 Supplier shall remedy any defects found prior to or upon transfer of risk or during the warranty period at WINCOR NIXDORF's option by either correcting them at its own expense or by furnishing new sup-

plies or services free of defects. This shall also apply to supplies where inspection has been confined to spot checks. The above option shall be subject to WINCOR NIXDORF's reasonably exercised discretion.

- 9.4 If Supplier fails to correct a defect, or to furnish new supplies or services, within a reasonable period of time set by WINCOR NIXDORF, WINCOR NIXDORF shall be entitled to:
- terminate the whole or any part of the contract without paying compensation
  - or demand a reduction of the price
  - or make, or have made, repairs or replacements at Supplier's expense
  - or claim damages for non-performance of the contract.

The same shall apply if Supplier declares itself unable to correct the defects, or to furnish new supplies or services within a reasonable period of time.

- 9.5 Repairs may be carried out at Supplier's expense without setting a reasonable time in the event of delayed delivery, and if immediate repairs are in WINCOR NIXDORF's interest to avoid its own delay or due to any other urgency.
- 9.6 Notice of defects shall be given within one month of the date of delivery of supplies or services, or within one month of the date said defects may be detected during handling or processing or commissioning.
- 9.7 The above provisions shall apply accordingly with respect to services required for remedying defects.
- 9.8 Defective items shall be returned at Supplier's expense and risk.

## 10 Serial error

- 10.1 Notwithstanding its warranty obligations in accordance with Clause 9 and notwithstanding the expiration of warranty periods, the Supplier shall make technical improvements to the Deliverables if faults or deficiencies based on the same cause and occurring within a period of five (5) years of respective shipment of a deliverable are determined in more than three percent (3%) of these Deliverables. The technical improvements shall comprise both free-of-charge maintenance of all already supplied Deliverables, regardless of where they are installed, by the Supplier in a workshop of WINCOR NIXDORF or the Supplier and free-of-charge performance of technical changes to the Deliverables with the aim of avoiding the fault or deficiency in future. The Supplier shall be obliged to pay all expenses, including material, transport and labour, which arise out of such maintenance and performance of technical changes due to serial errors.

## 11 Subcontracting to third parties

The Supplier may commission freelance workers or other third parties with performing contractual services only upon the prior written consent of WINCOR NIXDORF.

If consent is granted by WINCOR NIXDORF, Supplier undertakes to comply with all applicable labour and social laws and shall especially draw the attention of freelance workers or other third parties to the obligations concerning confidentiality and data protection that are stipulated in Sections 14, 15 and the obligation to comply with the Supplier Code of Conduct according to Section 20, and he shall obligate them accordingly. WINCOR NIXDORF is entitled to require the Supplier to produce a corresponding statement of the freelance workers or other third party.

## 12 Materials supplied by WINCOR NIXDORF

- 12.1 Materials supplied by WINCOR NIXDORF shall be and remain the sole property of WINCOR NIXDORF. Said materials shall be kept separately from other property; shall be marked appropriately; shall be maintained at no cost to WINCOR NIXDORF; shall be used only in filling WINCOR NIXDORF's orders, and shall be at Supplier's risk of loss or reduction in value until returned to WINCOR NIXDORF. The above shall also apply to billed materials furnished to Supplier with regard to a specific job.
- 12.2 Supplier shall process or work the materials on behalf of WINCOR NIXDORF, who shall forthwith become the sole proprietor of the new or worked item. Where this is not permitted by law, WINCOR NIXDORF and Supplier are agreed that WINCOR NIXDORF shall at any time during processing or working become the proprietor of the new item. Supplier shall apply due and proper care in keeping the new item at no cost to WINCOR NIXDORF.

## 13 Tools, molds, samples

Tools, molds, samples, models, sections, drawings, standards, documents and gauges supplied by WINCOR NIXDORF, as well as items made with or to them, shall not without WINCOR NIXDORF's written approval be passed on to third parties nor be used for purposes other than those specified in the contract. They shall be safeguarded against unauthorized inspection or use. Subject to any further rights, WINCOR NIXDORF shall be entitled to demand their return to it if Supplier does not comply with this obligation.

## 14 Confidentiality

- 14.1 All information designated as being confidential by one Party in writing or orally, in particular documents, drawings, knowledge or other business and trade secrets, shall be treated with confidentiality by the respective other Party and used solely for the purpose of fulfilment of the Order. This confidentiality agreement shall not apply to information
- that has entered the public domain without the effort of the recipient Party or
  - that was demonstrably known to the recipient when the information was disclosed or
  - that the recipient has obtained from an authorized third Party or
  - the disclosure of which is justifiably required by a public authority or
  - that is based on knowledge acquired independently of information from the disclosing Party.
- 14.2 If the Supplier is provided with documents, software and/or programming code, information or other aids, such objects shall remain the exclusive property of WINCOR NIXDORF and may only be used for executing the underlying Order. The Supplier is not entitled to copy such objects, disseminate them to third parties or disclose their contents to unauthorized persons without the prior written consent of WINCOR NIXDORF. The documents, software and/or programming code, information and other aids provided by WINCOR NIXDORF or created by the Supplier, as well as any duplicates made thereof, shall be returned to WINCOR NIXDORF of the Supplier's own accord after the end of the work or after expiration of a subsequent maintenance obligation. Software copies that WINCOR NIXDORF has provided to the Supplier to permit it to complete its work shall be destroyed. WINCOR NIXDORF shall be entitled to a declaration of completeness to this effect.
- 14.3 The obligations pertaining to confidentiality shall remain in force for a period of three (3) years after the fulfilment and completion of the Order.
- 14.4 The Supplier shall not derive any rights, in particular any rights resulting from prior use, from knowledge of the information, documents etc. provided to him with regard to applications for proprietary rights, inventions or other protected findings of WINCOR NIXDORF, regardless of any time limits stipulated in patent laws.

## 15 Data Protection

- 15.1 To the extent the Supplier must process personal data during its work on the subject matter of the Order, the Supplier shall observe data protection laws, agree on measures for data backup and security with WINCOR NIXDORF, and enable WINCOR NIXDORF to obtain information regarding conformance with such arrangements.
- 15.2 The Supplier shall impose an obligation corresponding with Sections 14.1, 14.2 and 15.1 upon its employees and third parties who are involved in fulfilling the order.

## 16 Delay in Performance

In the event the Supplier is in delay with a delivery or a contracted service, and after a reasonable grace period (typically one week) has elapsed without success, WINCOR NIXDORF shall be entitled to claim a flat rate compensation of 1%, but not more than 10%, of the remuneration payable for this delivery or service provided that WINCOR NIXDORF can credibly show that it suffered a damage from the delay. WINCOR NIXDORF is furthermore entitled to claim compensation for damages.

In the event the Supplier is in delay with a delivery or a contracted service for more than four (4) weeks, WINCOR NIXDORF is entitled to withdraw from the Order and claim reimbursement of all payments made up to that time. Notwithstanding the foregoing, WINCOR NIXDORF is still entitled to claim flat rate compensation and respectively damages according to Paragraph 1 of this Clause 16.

The Supplier may prove that the actual damages are lower.

## 17 Assignment of claims

No claims shall be assigned without WINCOR NIXDORF's written consent.

## 18 RoHS/REACH

- 18.1 The Supplier acknowledges that the Deliverables, their sale or use in certain countries may be governed by the Directive 2002/95/EC of the European Parliament and of the Council of 27 January 2003 on the restriction of the use of certain hazardous substances in electrical and electronic equipment (RoHS) and the Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003 on waste electrical and electronic equipment (WEEE) and their respective transposition into the national laws.
- 18.2 The Supplier therefore shall ensure that all Deliverables (including electrical equipment, spare parts, components or assemblies etc.) do not contain more than the quantities of the hazardous substances mentioned in the directive 2002/95/EC from January 27, 2003, (RoHS) and the respective national laws.

With regard to the EU Regulation 2006/1907 "REACH", the Supplier will comply with all obligations set forth in the separate Environmental Responsibility Agreement

- 18.3 Regarding the WEEE Directive and the respective national laws, the Supplier is obliged to supply the Deliverables in accordance with WINCOR NIXDORF general terms and conditions applicable for purchasing electrical equipment in terms of this directive, i.e. either with the producer's responsibility stated in those terms and conditions or with the obligations related to distributing and marketing of electrical equipment contained therein. These general terms and conditions can be found in WINCOR NIXDORF intranet or obtained in written form from WINCOR NIXDORF upon request; the version in place on the Commencement date shall be applicable.

## 19 Spare parts and Service

- 19.1 The Supplier shall maintain the Software delivered by him and give WINCOR NIXDORF access to improved versions for at least seven years commencing with the last delivery of the respective Software. Software maintenance shall include the improvement of program errors, modification of the program's functionality and the addition of new functions.
- 19.2 The Supplier shall also be obliged to repair the Products and to maintain the availability of Spare Parts and accessories for at least seven years commencing with the last delivery and to supply them upon being ordered by WINCOR NIXDORF at market prices.
- 19.3 The Supplier agrees to continue the delivery of the products for a period of at least five years commencing with the date of the first delivery.

## 20 Supplier Code of Conduct

- 20.1 Supplier shall implement WINCOR NIXDORF's Supplier Code of Conduct and shall obligate his subcontractors accordingly. WINCOR NIXDORF shall make the Supplier Code of Conduct available on its website ([www.wincor-nixdorf.com/suppliercoc](http://www.wincor-nixdorf.com/suppliercoc)). On request by WINCOR NIXDORF, Supplier will provide WINCOR NIXDORF with an official declaration by its management that Supplier fulfils all provisions of the Supplier Code of Conduct. Noncompliance with the Supplier Code of Conduct is considered a material breach of this Agreement, entitling WINCOR NIXDORF to terminate the Agreement, or – if the non-compliance affects a part of the service only, to terminate the respective Purchase Orders for cause.
- 20.2 If the Supplier is in breach of his obligations set forth in the Supplier Code of Conduct, the Supplier shall pay WINCOR NIXDORF a penalty amounting to
- 7 % of the gross amount invoiced (in case of a continuing obligation, of the yearly gross amount), if the breach is committed by an executive director or member of the board of the Supplier, or
  - 5 % of the audited gross amount invoiced (in the case of a continuing obligation, of the yearly gross amount), if the breach is committed by an authorised signatory or authorised representative, or
  - 2 % of the audited gross amount invoiced (in case of a continuing obligation, of the yearly gross amount), if the breach is committed by other employees of the Supplier or by subcontractors,
- but in no case shall the penalty be less than € 5000.
- 20.3 This contractual penalty shall not affect the rights of WINCOR NIXDORF to claim damages for breach of a contractual obligation. However, if a contractual penalty is incurred according to this section 20, it shall be set off against any such claims for damages. A penalty in accordance with the provisions of this section 20 can be imposed separately to other contractual penalties. The claim can be raised at any time up until final payment.
- 20.4 A penalty in accordance with the provisions of this section shall be inapplicable if the breach of the Supplier Code of Conduct is committed by a subcontractor of the Supplier, and if the choice of this subcontractor was made obligatory by WINCOR NIXDORF, and if the Supplier or his employees, board members, executive directors or other third parties working under his instruction did not themselves participate in committing this breach.

## 21 Liability

Supplier shall be liable to WINCOR NIXDORF only in accordance with

the provisions set forth in this Agreement.

- 21.1 Unless a certain arrangement on liability has been agreed in an Individual Agreement, Supplier shall be liable for personal damages (injury to life, body or health) up to an unrestricted amount, and for direct damages regarding property up to an amount of one (1) million EUR for each case of damage. However, the above limitation of liability shall not apply in cases of intent and gross negligence, for breach of a guarantee within the meaning of "Garantie", for fraudulent intent and in the application of Section 8. For financial damage or losses, the Supplier is liable as set forth in the statutory provisions.
- 21.2 The Supplier shall not be liable to WINCOR NIXDORF for damages which are attributable to force majeure, i.e. unpredictable, inevitable events.
- 21.3 Liability under product liability law that has been caused by the Supplier shall remain unaffected by the above provisions. Supplier will indemnify WINCOR NIXDORF and the protected contractual partners from these claims without limitation.
- 21.4 Unless expressly agreed otherwise in the contract, claims shall become statute-barred according to the applicable law(s).

## 22 Authorization to procure for Associated Companies

- 22.1 Associated Company shall mean any company that is controlled directly or indirectly by WINCOR NIXDORF or controls WINCOR NIXDORF. Control shall mean the direct or indirect ownership of at least 50% of the nominal capital, or the direct or indirect other right to name chief executives or persons with similar functions who have substantial influence.
- 22.2 The Parties agree that Associated Companies are also entitled to purchase products and / or services on the basis of the terms of this Agreement. Particularly all agreed conditions shall also apply to Subsidiaries, as well as all orders shall be counted against a respective total order amount. The Supplier shall inform WINCOR NIXDORF about any orders or purchases of Associated Companies.

## 23 Final provisions

- 23.1 Modifications and amendments to the present Terms and Conditions shall not be valid unless made in writing and signed by both Parties. This shall also apply to a rescission of the present provision.
- 23.2 Any provision of the present Terms and Conditions that is found to be invalid, voidable, unenforceable or contrary to law shall be disregarded in the performance or interpretation of these Terms and Conditions; the rest of the Terms and Conditions shall, however, remain in effect. The provision in question shall be replaced by a valid and enforceable provision that most closely reflects the intent and purpose of the Parties as far as is legally permissible.
- 23.3 Terms and Conditions other than those in the present Master Agreement shall only be valid if they have been expressly acknowledged in writing by both Parties to the Agreement and have been signed by the persons authorized by the Parties. In particular, they shall not obligate Wincor Nixdorf without its express written acknowledgment even if they are stated in the order confirmation or order acceptance of the Supplier. The same shall apply if Wincor Nixdorf accepts or pays for the ordered products in full or in part.
- 23.4 The Supplier may assign accounts receivable for WINCOR NIXDORF only if WINCOR NIXDORF consents thereto in writing. WINCOR NIXDORF shall withhold its consent to an assignment for financing purposes only for good cause.
- 23.5 In the event and to the extent of any conflict or inconsistency between the provisions in the main body of this Agreement and any provisions in the Appendices, this Agreement will prevail over the Appendices unless it is expressly stated otherwise in either the respective Clause in the Appendix and/or the respective Clause in this Agreement.

## 24 Venue, Applicable Law

- 24.1 The contractual relations (and any provisions in the Purchase Order) shall be governed by the laws of the Federal Republic of Germany. The United Nations Convention on Contracts for the International Sale of Goods (CISG) from April 11, 1980 shall not apply.
- 24.2 The place of jurisdiction for any legal disputes shall be Paderborn, the Federal Republic of Germany. If WINCOR NIXDORF is the plaintiff, WINCOR NIXDORF may also appeal to the court having jurisdiction for the seat of the Supplier.