

## Terms and Conditions of Purchase

Date: December 2016

### 1. Scope

1.1 These Terms and Conditions of Purchase apply to all legal transactions between the company specified in Section 15 (hereinafter referred to as the "Client") and its supplier (hereinafter referred to as the "Supplier").

Any of the Supplier's own general terms and conditions that are in conflict with these Terms and Conditions of Purchase are hereby expressly excluded, even in cases where the Supplier requires exclusions to be expressed in a particular form. The acceptance of deliveries and services does not in any way constitute recognition of the Supplier's general terms and conditions. This also applies in cases where the Supplier states his/her desire to deliver only under his/her own terms and conditions. If an exclusion is ruled out, the statutory provisions shall replace the contradictory terms and conditions.

1.2 Any amendments to the Terms and Conditions of Purchase, as well as any collateral agreements, must be submitted in writing; the same shall apply to any waiver of this written form requirement. No ancillary agreements have been entered into.

### 2. Orders

2.1 Orders and delivery requests constitute legally binding requests on the part of the Client for the Supplier to provide a product or service.

2.2 All orders, delivery requests, as well as any alterations or additions to the same, must be submitted by the Client in writing. The accepted means of submission in writing are transmission by fax, e-procurement system, e-mail and EDI. Orders submitted by the Client must be accepted by the Supplier within 14 calendar days. Any delivery requests made by the Client shall be binding for the Supplier unless objected to within two working days of their receipt. The timeliness of all statements made by the Supplier shall be defined by when they are received by the Client.

2.3 The Client is entitled to make alterations to deliveries or agreed services, provided said alterations are considered reasonable by the Supplier. The effects of such alterations must be taken into account accordingly, especially in terms of differences in cost and deadline alterations.

2.4 The Supplier is only entitled to provide deliveries or services in part with the prior written consent of the Client; in such cases, the remainder must be listed on the delivery note.

2.5 Wherever possible, all written correspondence from the Supplier must specify the SAP order number and be addressed to the member of the Client's staff responsible for processing the purchase, as detailed on the order.

### 3. Prices

All prices include all additional costs (transport, packaging and customs duty) and delivery, excl. VAT. If, after conclusion of the contract but prior to delivery, the Supplier makes general reductions to his/her prices, the Client shall also benefit from said reductions. Quotations are binding and shall not be remunerated unless another arrangement has been expressly agreed.

### 4. Delivery, packaging, proof of origin, services

4.1 The Supplier is only entitled to deliver prior to an agreed date with the consent of the Client.

4.2 As far as is commercially and technically feasible, the

Supplier hereby agrees to use environmentally friendly products and procedures for his/her deliveries and services. The applicable technological regulations and European and German laws and legal provisions, as well as any other laws and provisions applicable at the place of performance, in particular regulations pertaining to environmental protection, fire safety, hazardous materials, hazardous goods and accident prevention, must be observed. Generally recognised rules for occupational health and safety must be complied with.

4.3 The Supplier must enclose all the necessary delivery papers in the delivery. The delivery papers must specify the delivery address, the SAP order numbers (where applicable), the order item numbers, the name of the member of the Client's staff responsible for processing the purchase, the delivery quantity, the weight of the shipment and any other information relevant to the delivery. Missing or incomplete delivery papers constitute sufficient grounds for the Client to reject a delivery.

If a machine is delivered in accordance with the machinery directive (98/37/EC), the risk assessment in accordance with the Directive must also be handed over to the Client.

4.4 The deliveries must be packed properly in accordance with standard commercial practice using environmentally friendly packaging materials to the extent possible. If the Client stipulates special packaging instructions, he/she is entitled to reject the delivery if said instructions are not observed. Transport packaging must be taken back by the Supplier at his/her own cost. Product packaging must be sourced in such a way that it can be disposed of by the Client at no additional cost. Recyclable packaging must be used wherever possible. If such packaging is used, this must be clearly stated and marked accordingly on the packaging by the Supplier. Recyclable packaging materials shall be provided and returned at the cost and risk of the Supplier.

The Client can return specially invoiced packaging to the Supplier carriage paid for a remuneration equal to 2/3 of the invoiced cost of the packaging, providing said packaging is in a reusable state.

4.5 On goods intended for export, the Supplier must provide a written declaration on the origin of the goods, in accordance with customs laws and using the proper forms. This declaration must be forwarded to the Client together with the first delivery at the latest. The Supplier shall ensure that the goods he/she delivers comply with all the applicable legal provisions and, for deliveries to countries other than the country of origin, the applicable provisions in the destination country.

4.6 Delivered goods become the property of the Client when handed over to the Client. Any delayed and/or extended property rights are hereby expressly excluded.

## 5. Personnel

5.1 The Supplier shall always use his/her own personnel to provide the agreed deliveries and services. In accordance with the applicable legal provisions, the Supplier shall only employ staff with a valid work permit for the Federal Republic of Germany to supply the agreed service. Alternatively, if the service is to be provided outside of Germany, the staff employed by the Supplier to do so must each be in possession of a valid work permit for the country of manufacture/service in question. Furthermore, the Supplier shall only employ staff to provide the service who are properly registered with the German social security authorities or those of the country of manufacture/provision, and whose contributions are paid correctly, including the applicable contributions for tax and other purposes. The Supplier shall pay applicable taxes and social security contributions in full and on time to the responsible collection offices (social security authority, tax office, etc.). The staff shall have a valid employment contract with the Supplier and shall be paid for their work in accordance with the applicable provisions. The Supplier shall instruct his/her staff to adhere strictly to the regulations pertaining to occupational safety, the protection of young people at work and the applicable legal and official restrictions. The Supplier shall constantly monitor his/her staff to ensure their compliance with the aforementioned regulations.

5.2 The Supplier may only sub-contract a service and/or delivery, be it in part or in its entirety, to a suitable and reliable sub-contractor with the prior written consent of the Client. In such situations, the sub-contractors must agree in writing to maintain confidentiality and data privacy in accordance with the provisions agreed by and between the Client and the Supplier. The Client's consent shall neither limit the obligations of the Supplier nor constitute a basis for rights on the part of the sub-contractor.

## 6. Delays, contractual penalties

The agreed dates and deadlines must be observed. Failure to do so on the part of the Supplier shall be subject to a contractual penalty equal to 0.5% of the order value per week or part thereof, up to a maximum of 5% of the order value. Any additional claims arising from delays shall remain unaffected by this provision.

Foreseeable delays must be reported immediately to the Client.

The unconditional acceptance of and payment for a delayed delivery or service does not imply a waiver of any claims the Client is entitled to make due to the delay in delivery or provision of the service.

## 7. Limitation period, quality assurance, guarantee, duty to inform

7.1 All guarantee claims made by the Client are subject to a limitation period of three years. This limitation period shall also apply to claims that do not relate to a defect. The limitation period for any defect that leads to supplementary performance shall begin anew upon completion of said supplementary performance.

Any longer statutory periods of limitation shall remain unaffected by this clause, as shall any further provisions pertaining to the suspension of expiry, suspension and recommencement of limitation periods.

7.2 Any costs relating to supplementary performance that arise due to the object of the contract being transported to another location by the Client following the hand-over must be borne

by the Supplier.

7.3 In particularly urgent cases, the Client is entitled to carry out the supplementary performance himself/herself, or have it carried out, at the cost of the Supplier, if the Supplier does not agree to carry out the supplementary performance immediately (within a maximum of three working days).

7.4 If occupational health and safety provisions need to be taken into account in relation to deliveries and/or services, the Supplier must provide written notification to this effect.

7.5 Persons working on the Client's premises must comply with the provisions of the applicable company regulations, as well as the instructions issued in the applicable site safety information or by the responsible staff employed by the Client.

## 8. Invoicing and terms of payment, offsetting

8.1 The Supplier's invoices must be provided in duplicate, specifying the order item number, the member of the Client's staff responsible for processing the purchase, the quantities delivered, the prices thereof and – where applicable – the SAP order numbers. All payments shall be retained by the Client subject to the provision of an invoice in accordance with the German Value Added Tax Act (UStG). Upon request from the Client, the requirement for an invoice can be ignored in favour of a credit note procedure in accordance with the provisions of UStG.

8.2 For contractual relationships that result in more than 10 invoices per year, the Supplier hereby agrees to invoice the Client via the service provided by gotomaxx Software GmbH, providing this is technically feasible. The technical feasibility of this procedure must be determined by gotomaxx.

Alternatively, the Supplier may use its own e-invoicing service provider, providing said provider agrees to cooperate with gotomaxx ("roaming") so that the Client still receives the invoices via gotomaxx. Other electronic formats and means of transmission will not be accepted.

If the Supplier does not agree to the obligation to use e-invoicing procedure despite issuing a sufficient volume of invoices to do so, the Client is entitled to deduct a processing fee (currently 5.00 euros per invoice) from the total before tax stated on the invoice, without prior notification.

8.3 Unless agreed otherwise, payments shall be made in accordance with commercial conventions within 14 days with a 3% discount, or within 60 days net. The place of performance shall be the registered location of the Client's registered office.

8.4 The Client is entitled to offset all the claims of companies affiliated with his/her group in accordance with Sections 15 et seq. of the German Companies Act (AktG) against the claims of the Supplier.

## 9. Force majeure

9.1 In case of force majeure, lawful industrial action and wildcat strikes, riots, official action and other unforeseeable, extraordinary and unforeseen circumstances the contracting parties shall be relieved from their duties for the duration of the disturbance in question. This shall also apply if the aforementioned events occur at a time at which the party in question is experiencing a delay. The contracting parties shall, within reason, notify one another accordingly of such situations and adapt their obligations in good faith to the changes in circumstances. Should the force majeure continue for a significant period of time, the Client is entitled to withdraw from the contract in case of a significant reduction in his/her requirements.

9.2 The Client shall be relieved of his/her duty to accept or reject deliveries/services and entitled to withdraw from the contract should he/she no longer be able to make use of said deliveries and services due to delays caused by the force majeure or industrial action.

#### **10. Security in the supply chain**

10.1 If necessary, the Supplier shall provide a declaration asserting that he/she is a certified Authorised Economic Operator (AEO), and submit a copy of his/her official certification to the Client as evidence thereof by the signing of the contract at the latest.

10.2 If the Supplier is not an Authorised Economic Operator, he/she hereby undertakes to sign the customs security declaration ([www.zoll.de](http://www.zoll.de)) and comply with the provisions and regulations stipulated therein.

10.3 Should the Supplier violate any of the provisions and/or regulations of the customs security declaration, either in part or in their entirety, or fill in the "Security declaration" document incorrectly, the Client is entitled to terminate the contract in question without notice.

10.4 Furthermore, the Supplier hereby indemnifies the Client as far as legally permissible from responsibility for any claims made by third parties arising from a partial or complete failure on the part of the Supplier to fulfil his/her obligations - in particular obligations to the authorities - in accordance with the customs security declaration, regardless of the legal basis of said claims. Any further entitlement to damages and all other claims and/or rights shall remain unaffected by this provision.

10.5 The Supplier shall bear all costs incurred by the Client that arise from the Supplier's failure to fill in the relevant documents correctly or the Supplier's partial or complete failure to fulfil his/her obligations in accordance with the customs security declaration, including the costs of termination without notice.

#### **11. Minimum wage**

11.1 The Supplier hereby agrees to pay his/her employees the statutory minimum wage. Upon request from the Client, the Supplier shall provide evidence that he/she has paid his/her employees the minimum wage for the entire term of the contract and up to six months following the termination of the contractual relationship. Compliance with this request must be proven within 14 days following the fulfilment of this duty, and the relevant evidence must be submitted in the form of appropriate documents (in particular documents in accordance with Section 17 (1) of the German Minimum Wage Act (MiLoG), certificate of good standing from the responsible social security benefits office or leave fund, etc.).

11.2 The Supplier hereby indemnifies the Client from responsibility for any claims made by third parties (especially employees of the Supplier, clients of the Client and the German Federal Employment Agency (Bundesagentur für Arbeit)) in relation to violation of the obligation to pay the minimum wage on first demand.

11.3 The Supplier hereby agrees to obligate any sub-contractors to to demonstrably pay the statutory minimum wage and indemnify the Client of any obligations to third parties to the same extent as the Supplier himself/herself is obliged to do so under Sections 11.1 and 11.2. If the sub-contractor on his/her part engages further sub-contractors, the Supplier must ensure that all sub-contractors are bound to the same obligations.

11.4 The Supplier shall be liable for any claims brought against the Client by third parties arising from a violation on the part of a sub-contractor of the duty to pay the statutory minimum wage.

#### **12. Supplier Code of conduct**

The Supplier hereby agrees to comply with all the applicable legal provisions and regulations pertaining to accident prevention, employee health and safety and environmental protection in the provision of the agreed deliveries and services. Notwithstanding to his/her other obligations, the Supplier shall observe the Bertelsmann SE & Co. KGaA Supplier Code of Conduct. All other provisions shall remain unaffected by this provision. The Supplier Code of Conduct of Bertelsmann SE & Co. KGaA can be accessed via the following websites:

<https://www.bertelsmann.com/corporate-responsibility/compliance/business-partners/>

#### **13. Procurement of energy services, products, equipment and energy**

In case of procurement of energy services, products and equipment that have, or might have an impact on significant energy use, products and services are evaluated with regard to their energy efficiency by the general procurement unit or the specific procurement unit.

To such extent, energy efficiency has an impact on the Client's procurement decision. Within similar characteristics, energy services, products and equipment with a higher energy efficiency will be preferred.

#### **14. Final provisions**

14.1 The contracting parties undertake to treat all business and technical details that are not general knowledge, as well as any other information to which they become privy during the business relationship, as business secrets and confidential, and in particular not to pass on such information to third parties. The same shall apply to all other information and documentation. Any sub-contractors must also agree in writing to these provisions. Third parties in the sense used above are defined as companies not affiliated with the Client in accordance with Sections 15 et seq. of the German Companies Act (AktG). The aforementioned documents must be returned to the Client immediately following termination of the contract, at the Supplier's own cost.

14.2 The Supplier may only assign contractual rights and obligations, excluding pecuniary claims as stated in Section 354a of the German Commercial Code (HGB), to third parties with Client's written consent. Third parties in this sense are defined as companies not affiliated with the Client in accordance with Sections 15 et seq. of the German Companies Act (AktG). The place of jurisdiction for all disputes arising from or based on the contract and these Terms and Conditions of Purchase shall also be the

location of the Client's registered office. In the case of civil action initiated by the Client, the location of the Supplier's registered office shall act as an additional place of jurisdiction.

- 14.3 These Terms and Conditions of Purchase are governed exclusively by the law of the Federal Republic of Germany. Should one or more of the provisions of these Terms and Conditions of Purchase be or become invalid, either in part or in their entirety, this shall not affect the validity of the remaining provisions. Invalid provisions must be replaced with appropriate provisions that come as close as possible to representing the economic intentions of the contracting parties at the time the original provision was drawn up. The same shall apply to any loopholes found in these Terms and Conditions of Purchase.

## 15. List of companies

- arvato media GmbH
- arvato direct services Wilhelmshaven GmbH
- arvato direct services Stuttgart GmbH
- arvato direct services Dortmund GmbH
- arvato direct services GmbH
- arvato direct services Münster GmbH
- arvato direct services Eiweiler GmbH
- arvato direct services Cottbus GmbH
- arvato direct services Neubrandenburg GmbH
- arvato direct services Potsdam GmbH
- arvato services Erfurt GmbH
- arvato services Rostock GmbH
- arvato direct services Brandenburg GmbH
- arvato direct services Stralsund GmbH
- arvato direct services Rostock GmbH
- arvato services Schwerin GmbH
- arvato services Chemnitz GmbH
- arvato analytics GmbH
- arvato telco services Erfurt GmbH
- arvato backoffice services Erfurt GmbH
- arvato services Duisburg GmbH
- arvato services Saarbrücken GmbH
- arvato direct services Schwerin GmbH
- arvato services Essen GmbH
- arvato logistics, corporate real estate & transport GmbH
- arvato business support GmbH
- Arvato Distribution GmbH
- Deutsche Post Adress GmbH & Co.KG
- Deutsche Post Adress Geschäftsführung GmbH
- BFS finance GmbH
- BFS risk & collection GmbH
- BFS finance Münster GmbH
- BFS health finance GmbH
- ABIS GmbH
- Nürnberger Inkasso GmbH
- informa Solutions GmbH
- informa Insurance Risk and Fraud Prevention GmbH
- infoscore Consumer Data GmbH
- infoscore Business Support GmbH
- infoscore Finance GmbH
- infoscore Forderungsmanagement GmbH
- infoscore Portfolio Management GmbH
- arvato infoscore GmbH