

## **GENERAL PURCHASING CONDITIONS**

Socionext Europe GmbH

V1.0/01.03.2021

### **1. Exclusive validity**

#### **1.1**

These General Purchasing Conditions apply exclusively to contractual relationships between Socionext Europe GmbH as customer ("Socionext") and entrepreneurs and other merchants, legal persons under public law and funds under public law as providers ("Supplier"). These General Purchasing Conditions apply to the purchase of products and goods as well as to contracts for work and services ("Werkverträge") and contracts for services ("Dienstverträge").

#### **1.2**

All individual agreements with Socionext shall be governed exclusively by these General Purchasing Conditions, unless otherwise expressly agreed in writing. All future individual agreements between Socionext and the Supplier will be based on these General Purchasing Conditions, to the exclusion of general terms and conditions providing otherwise.

#### **1.3**

The Supplier's general terms and conditions are hereby rejected. Socionext's acceptance of goods and services from the Supplier does not constitute recognition of the Supplier's general terms and conditions.

#### **1.4**

Any agreement reached between the Supplier and Socionext is legally valid only if it was made in writing by the parties. Oral agreements must be confirmed by Socionext in writing in order to be valid. Further additional conditions or contractual clauses added by the Supplier are deemed rejected until approved in writing by Socionext.

### **2. Conclusion of the agreement**

#### **2.1**

Orders and changes to the orders are binding only if ordered or confirmed in writing by Socionext. Orders made via electronic goods management systems or Internet portals are also valid.

#### **2.2**

In the absence of any other deadline, Socionext is bound to its orders for ten calendar days from the order date. The Supplier is to confirm the order in writing within the ten days without reservation (acceptance). Socionext must receive the declaration of acceptance for timely acceptance to be valid.

### **3. Prices and payment conditions**

#### **3.1**

The price stated in the order is binding and shall be the sole compensation for all services of Supplier. The stated price is net (excluding VAT).

#### **3.2**

All deliveries shall be DDP to the requested location, according to the Incoterms® 2020 of the International Chamber of Commerce, ICC.

### 3.3

Socionext has the option of paying

- with a 3% discount within 14 days of receipt of a correct and proper invoice and receipt of the proper and complete delivery of all goods (purchase contracts), the complete provision of services (contracts for services) or complete acceptance (contracts for work and services), or
- net (without any deduction) within 60 days of receipt of a correct and proper invoice and receipt of the proper and complete delivery of all goods (purchase contracts), the complete provision of services (contracts for services) or complete acceptance (contracts for work and services).

### 3.4

Socionext may choose the payment method whereby bank transfer shall be the standard payment method. The date of the payment instruction placed by Socionext with its bank or payment provider is relevant in the assessment of timely payment.

### 3.5

Socionext is deemed to be in default only when a written and justified reminder is issued by the Supplier after the payment is due.

### 3.6

Payments by Socionext do not constitute an acknowledgment of the claim or acceptance of the contractual performance.

## 4. Times for delivery and services, delays

### 4.1

Deadlines and dates for deliveries and services are binding and shall be adhered to exactly. These deadlines and dates refer to the date of receipt of the goods by Socionext, or the provision of services or the presentation for acceptance respectively.

### 4.2

The Supplier is obliged to inform Socionext immediately in writing of any delay in delivery or services. If the goods are not delivered on time or the services are not provided in time, Socionext's statutory rights apply.

### 4.3

Furthermore, in the event of a delay, Socionext is entitled to demand in writing a contractual penalty of 0.5% of the contractual value of the delivery or service affected by the delay for each commenced calendar week of delay, in total no more than 5% of the total contractual value. Socionext reserves the right to claim further damage due to the delay. The contractual penalty will be set off against this further claim for damages.

### 4.4

Clause 4.3 shall apply mutatis mutandis in case Socionext is not informed of the delay in time.

## 5. Services, delivery and passage of risk

### 5.1

The address for the delivery of goods or the provision of services is specified in the order.

### 5.2

Partial deliveries or services are not permitted without prior written consent by Socionext. Services on time basis require Socionext approval of Supplier's service time documentation.

### 5.3

Unless otherwise provided in the individual agreements, the passage of risk shall be in accordance with the clause “delivery duty paid” (DDP) Incoterms® 2020.

## 6. Acceptance

If the Supplier provides services under a contract for work and services, Socionext will conduct an acceptance procedure. If requested by Socionext, the Supplier is obliged to support Socionext during acceptance to a reasonable extent free of cost. Insofar as necessary, the details of the acceptance procedure (acceptance criteria, tests, timelines in particular) will be provided for in the order or a separate agreement.

## 7. Warranty - purchase contracts

### 7.1

The Supplier assumes liability for any defects in the delivered goods and warrants that they are delivered with the features ordered and that they meet the agreed requirements of Socionext completely. The Supplier also warrants that it is able to transfer full ownership of the delivered goods and that there are no conflicting third-party rights.

### 7.2

Socionext is exempt from the statutory duty to immediately inspect the delivered goods and immediately report any defects. Defects evident upon external visual inspection (i.e. transport damage, quantity or identity deviations) will be reported by Socionext without undue delay upon receipt of the goods. Any other defects will be reported without undue delay after Socionext becomes aware of them. Defect reports are deemed timely provided if they are sent by Socionext within 5 working days of delivery in case of evident defects or within 15 working days upon discovery of the defect in case of other defects.

### 7.3

The statutory warranty period shall apply. In no event shall Supplier's liability for defects expire before expiry of two years from the date of delivery.

### 7.4

If the delivered goods are defective, Socionext is entitled under statutory requirements to opt for delivery of new, non-defective goods, correction of the defect(s), a reduction in the purchase price or to withdraw from the contract, and claim damages or compensation for futile expenditure.

## 8. Warranty - contracts for work and services and contracts for services

**8.1** The Supplier assumes liability for any defects in the delivered goods and products and warrants that they are delivered with the features ordered and that they meet the agreed requirements of Socionext completely. The Supplier also warrants that Socionext has or will obtain full ownership of the delivered goods and products and that there are no conflicting third-party rights.

### 8.2

The statutory warranty period shall apply. In no event shall Supplier's liability for defects expire before expiry of two years from the date of acceptance.

### 8.3

If the manufactured goods and products are defective or incomplete, Socionext is entitled under statutory requirements to opt for delivery of new, non-defective goods, correction of the defect(s) or to remedy the defect itself and at the expense of the Supplier or to opt for a reduction in the purchase price or to withdraw from the contract, and claim damages or compensation for futile expenditure or a combination of the above named.

## 8.4

In the event services provided by the Supplier are not in accordance with the contractual requirements, the Supplier shall at the choice of Socionext either re-perform the relevant service in accordance with the contractual requirements at Supplier's cost or reduce the contractual remuneration to adequately reflect the deviation from the contractual requirements.

## 9. Product liability

### 9.1

If claims are made against Socionext under product liability, in accordance with the German Product Liability Act (*Produkthaftungsgesetz*) or local equivalent, due to a breach of official safety regulations or something similar, under domestic or foreign law, the Supplier will, upon written request, indemnify Socionext from and against such claims and related costs (including reasonable legal cost), to the extent that the damage caused by the goods, products or services delivered by the Supplier has its origin in the Supplier's sphere of responsibility and organization.

### 9.2

The costs to be reimbursed by the Supplier include the costs for an appropriate recall, to the extent the goods delivered by the Supplier were the reason for the recall.

### 9.3

The Supplier is obliged to take out and maintain appropriate liability insurance for product liability cases.

## 10. Intellectual and industrial property rights

### 10.1

The Supplier is liable for any violation of patents, trademarks, utility models, copyrights or other third party intellectual or industrial property rights in Germany or abroad caused by the delivered goods, manufactured products and services and/or contractually appropriate use thereof.

### 10.2

In the event that the Supplier is obliged to pay damages due to a violation of industrial or intellectual property rights, it shall also indemnify Socionext from all third-party claims and related costs (including reasonable legal cost) without delay.

## 11. Export control and foreign trade data

### 11.1

The Supplier shall comply with all applicable national and international export control, customs and foreign trade provisions („Foreign Trade Law“). The Supplier is obliged to provide Socionext at the latest 1 week after receipt of the order - and additionally in case of any changes without undue delay - with all information and data in written form, which Socionext needs to comply with Foreign Trade Law in case of exports, imports, reexports and transfers, including, but not limited to:

- (i) All applicable export control list positions, namely the control positions in Part I A of the Export List (Ausfuhrliste) to the German Foreign Trade and Payments Ordinance (Außenwirtschaftsverordnung), so called "Ausfuhrlistennummern", control positions in Annex I EC Regulation No 428/2009 as amended and, if applicable, the Export Control Classification Number according to the U.S. Commerce Control List (ECCN);
- (ii) The statistical commodity code goods number according to the current goods directory for foreign trade statistics and the HS (Harmonized System) Code;

- (iii) The country of origin (non-preferential origin) and, upon request by Socionext, supplier's declarations for the preferential origin (in case of European suppliers) or preferential certificates (in case of non-European suppliers).

## 11.2

In case the Supplier fails to comply with the provisions under section 11.1, Socionext may terminate the respective order for cause without notice. The Supplier shall be liable for any expenses and/or damages incurred by Socionext due to any breach of the Supplier's obligations as described under section 11.1.

## 12. Data protection, Information Security and Confidentiality

### 12.1

The parties shall comply with the applicable data protection laws, in particular the General Data Protection Regulation of the European Union (EU) 2016/679 (GDPR) and the German Data Protection Act (BDSG). Personal data is processed exclusively in accordance with the statutory requirements.

### 12.2

The parties shall maintain secrecy with respect to personal data, business and trade secrets as well as other confidential information (together "Confidential Information"). They shall take all necessary measures to prevent third parties from unauthorised access to and application or usage of Confidential Information and apply at least the same level of care as in relation to its own information of similar importance, but as a minimum the prudence of a diligent business person. This includes, in particular, applying suitable technical security measures conforming to the current state of the art. Confidential Information may only be applied or used for the purposes of the contractual relationship between Socionext and the Supplier; any application or use for a party's own purposes or for third parties is prohibited. The obligations under this section 12.2 shall not apply to the extent Confidential Information is required to be disclosed on the basis of an official or court order, binding legal requirements or capital market related disclosure obligations.

## 13. Force majeure

### 13.1

Force majeure events include all circumstances beyond the control of the parties, such as natural disaster, epidemic disease, war and other military conflicts, civil unrest, terrorist attacks, strikes and other circumstances occurring after conclusion of the agreement that are unforeseen, severe and not caused by or attributable to the contracting parties, in each case whether or not officially declared or confirmed by law or government.

### 13.2

The party whose performance is affected by a force majeure event shall inform the other contracting party in writing without undue delay after the force majeure event begins, of the nature of the event, the date and time it commenced and the expected effects on the party's ability to meet its contractual obligations. The affected party shall inform the other contracting party without undue delay when the force majeure event has ended and resume fulfilment of its contractual obligations.

### 13.3

In case the force majeure event results in a permanent inability of the Supplier to fulfil its contractual obligations, Socionext shall be entitled to rescind the affected order. In case the force majeure event temporarily impedes or delays the fulfilment of Supplier's contractual obligations, Socionext may rescind the affected order upon expiry of 30 days or require performance on a later date. Further statutory rights of Socionext remain unaffected.

## **14. Special provisions for production equipment and documentation for contract manufacturing**

### **14.1**

Title to models, tools, moulds, drawings, plans and other production equipment and documentation made available by Socionext to the Supplier remains with Socionext. Socionext's intellectual and industrial property rights to the production equipment and documentation made available to the Supplier remain unaffected. Socionext is the prospective beneficiary of production equipment and documentation. Production equipment and documentation become the property of Socionext immediately upon full payment by Socionext.

### **14.2**

The Supplier shall store, maintain and care for the production equipment and documentation owned by Socionext at its own expense and shall insure it against damage in line with normal business practice.

### **14.3**

Production equipment and documentation owned by Socionext shall be treated as strictly confidential and may not - without written consent from Socionext- be copied, published, made available in any way to third parties or used for any purpose other than that contractually agreed. When these items are no longer required to carry out the order, they are to be returned without delay to Socionext or to be disposed upon Socionext request at the Supplier's expense. The Supplier is obliged to observe the obligations under sentences 1 and 2 also after the respective order has been processed, and to impose obligations on its subcontractors accordingly. The confidentiality obligation expires if the knowledge contained in the documentation becomes common knowledge. The confidentiality obligation shall not apply to the extent confidential information is required to be disclosed on the basis of an official or court order, binding legal requirements or capital market related disclosure obligations.

## **15. Special provisions for software development services**

### **15.1**

In the event that Open Source Software is used, the Supplier assumes liability that this use is documented in accordance with applicable industry standards and the requirements of the respectively applicable Open Source License Conditions and is disclosed to Socionext. In particular, the Supplier will adhere to all requirements of the respectively applicable Open Source License Conditions and will notify these requirements to Socionext.

In the event that Open Source Software is used, the Supplier also assumes liability that he will take all necessary steps required according to the respectively applicable Open Source License Conditions to prevent a so-called viral effect or a so-called infection of further parts of the software.

### **15.2**

The Supplier grants Socionext the exclusive, worldwide and perpetual, right to use the software or software components developed by the Supplier in an unlimited manner and in any way. This right of use includes, in particular, the right to copy, translate, change, connect with other software or otherwise amend the software as well as the right to sell as part of another product, distribute, communicate to the public or otherwise exploit the software and any copies made.

### **15.3**

For software development services the delivery will include the delivery of the object code, the source code and documentation according to industry standards.

## **16. Assignment, set-off, right of retention**

### **16.1**

Contracts under these General Purchasing Conditions, or individual rights and obligations contained in it, may only be transferred by the Supplier to third parties with the prior written consent of Socionext.

## **16.2**

The Supplier may only set off against claims that are undisputed or declared enforceable by a binding and final court decision. This also applies to legal rights of retention or refusal to perform.

## **17. Rescission**

In the event that the Supplier does not fulfil his contractual obligations, or fails to fulfil them satisfactorily for whatever reason, Socionext may, after expiry of an adequate extension period, rescind the contract and, if the Supplier is at fault, demand compensation for non-fulfilment.

## **18. Place of performance, jurisdiction**

### **18.1**

The place of performance for the obligations incumbent upon both parties is Langen, Hesse, Germany.

### **18.2**

The sole place of jurisdiction for all disputes arising from or in connection with the contract shall be Frankfurt am Main (Germany) District Court. The right of Socionext to sue the Supplier in another place of jurisdiction shall remain unaffected.

## **19. Applicable law**

The legal relationships of the parties are governed by the laws of the Federal Republic of Germany to the exclusion of provisions of private international law. The United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not apply.

## **20. Partial invalidity and severability**

The invalidity or unenforceability of individual provisions of these General Purchasing Conditions shall not affect the validity of the remaining provisions. In place of an invalid or unenforceable provision, the statutory provisions shall apply.

## **21. Written form**

Agreements to waive or amend a requirement for written form must be made in writing in order to be valid. If written form is required in these General Purchasing Conditions for declarations by the parties, this requirement is also fulfilled by the text form in accordance with section 126b of the German Civil Code (*Bürgerliches Gesetzbuch* -BGB) (e.g. email, fax, EDI, B2B networks).