

Terms and Conditions of Purchase

Niterrra EMEA GmbH

1. Scope

- 1.1 Agreements between the contractor and Niterra EMEA GmbH (Niterrra) shall be based solely on these Terms and Conditions. Confirmation or execution of our order shall be deemed to constitute recognition of these Terms and Conditions. Any other terms and conditions, in particular those of the contractor, shall not be part of the agreement, even if Niterra does not expressly reject such. If the content of our General Terms and Conditions of Purchase differ from those of the contractor, the terms and conditions of the contractor shall only be binding on Niterra to the extent that we expressly recognise such in writing. No response, acceptance of performance or payment of such on our part shall not be deemed to be tantamount to recognition of such.
- 1.2 Individual agreements, such as framework agreements and details in our orders, take precedence over these Terms and Conditions of Purchase.

2. Conclusion of the agreement, amendments to the agreement

- 2.1 Orders, call-ups of deliveries and changes, subsidiary agreements and amendments to such shall only be valid if they are in writing. The contractor shall confirm orders in writing (also electronically via e-mail) within 14 days after delivery of such. If the contractor fails to accept an order within a period of two weeks after receipt, Niterra shall be entitled to cancel such at any time. If confirmation deviates from our order, such shall be deemed to constitute a new offer and shall require written acceptance by Niterra. If no such acceptance takes place and the business partner nevertheless carries out delivery or renders any other performance, Niterra shall only accept the transaction subject to the terms and conditions of order issued by Niterra. Any and all contractual agreements as well as changes and amendments to such must be in writing. Verbal covenants and agreements shall only be effective if such are confirmed by Niterra in writing.
- 2.2 The involvement of subcontractors shall be subject to the written consent of Niterra. The contractor shall bear complete responsibility for performance by the subcontractor. Consent provided by Niterra to involve subcontractors shall not release the contractor from any obligation with regard to the respective contractual agreement.
- 2.3 The contractor of goods shall be obligated, insofar as Niterra EMEA GmbH resells its product, to supply reasonable quantities of products in the form of subsequent orders for at least 15 years after the last delivery and in the case of products consisting of different components provide spare parts for at least the same period of time. The price for subsequently supplied products shall conform with the last price agreed upon in writing while taking into account price developments, expected sales quantities and the size of the quantities respectively ordered by Niterra.
- 2.4 The contractor has taken out sufficient insurance in order to cover its statutory and contractual liability and shall remain commensurately insured during the contractual relationship with Niterra EMEA GmbH. The contractor shall provide Niterra the possibility to review the insurance policies if so requested. The contractor shall cede all claims to insurance compensation to Niterra in advance unless the insurance company prohibits such cession. The contractor shall be obligated to inform the insurance company about the cession. Notwithstanding this, Niterra shall also be entitled to inform the insurance company hereof.

3. Scope of delivery and performance

- 3.1 Niterra shall inform the contractor about any quality requirements applying to the products and manufacturing processes already upon the placement of orders and the documents upon which such are based. If the contractor objects to any quality requirements applying to the products or requirements applying to production that it is informed of by Niterra, the contractor shall notify Niterra hereof in writing without undue delay. If the two parties to the agreement agree on any different quality requirements or different quality requirements applying to the production process, such shall be confirmed by both parties in writing. If Niterra wants to change quality requirements or manufacturing processes, Niterra shall inform the contractor hereof without undue delay. The contractor shall be obligated to initiate all the steps required to carry out such changes to this extent that such are reasonable to expect of the contractor. If such are not reasonable to expect, the parties shall undertake every reasonable action for the good of the project in order to arrive at a speedy solution by mutual agreement. If the two parties are unable to arrive at an amicable agreement, Niterra reserves the right to withdraw from the agreement.
- 3.2 The contractor warrants that the products are free of defect, i.e. they display the quality commonly expected of such products, they conform with relevant specifications, the guaranties of the contractor (§ 443 of the German Civil Code) and the requirements stipulated in this Agreement and the order and that they are free from defects in the design, material and production. The contractor furthermore warrants that no rights of third parties (title, lien, patent, copyright, rights emanating from a non-disclosure agreement) stand in the way of usage or sale of products by Niterra.
- 3.3 The contractor shall be responsible for precisely inspecting local conditions prior to submitting an offer and obtaining a clear overview of the execution of the services as well as adherence to the technical and other provisions by inspecting the documents. The contractor shall review any documents that have been handed over to ensure that such are correct, can be executed and if need be check the quality of work previously carried out by third parties, including terms of local conditions. The contractor shall notify Niterra immediately about any misgivings it may have of any kind and agree with Niterra on the continued performance of the work.
- 3.4 Any costs which come about within the framework of the preparation of the offer shall be borne by the party submitting such offer, it shall not be remunerated if no order is eventually placed. Any agreements to the contrary must be in writing.

4. Prices, terms and conditions of payment, invoicing

- 4.1 Consignments or other performances shall be rendered on the basis of previously agreed-upon fixed prices. The price stated in the order is binding. All prices include statutory value added tax if this is not shown separately. Any adjustment in prices shall be subject to a written agreement between the parties to the agreement. If nothing to the contrary has been agreed upon, payments shall be effected within a period of 14 days minus a 3% discount or within 30 days without any deductions. The payment period shall commence upon receipt of the performance in accordance with the agreement and receipt of a proper invoice that can be checked to determine if it is correct. The date of the receipt stamp shall be deemed to be the date when the invoice is received. Niterra shall complain about invoices that do not conform to our requirements, and in particular fail to adhere to statutory requirements, without undue delay. The discount period shall in such cases not commence before receipt of the correct invoice. Delivery that is effected prematurely without our consent shall not affect the payment periods linked to the originally agreed-upon delivery dates. In the case of bank transfer, a payment shall be deemed to have been made in due time if our transfer order is received by our bank before the expiry of the payment deadline; Niterra EMEA GmbH shall not be responsible for any delays caused by the banks involved in the payment process. If packaging and freight costs are incurred, such shall be listed separately. If the costs of transport are borne by Niterra, Niterra reserves the right to determine the freight carrier. The contractor shall notify NITERRA when the goods are ready for shipping. If the agreed-upon price does not include packaging, the packaging shall be charged at cost. Prices shall be subject to additional statutory value-added tax charges.
- 4.2 The parties shall only cede their claims emanating from this GTC's with the prior written consent of the other party. This shall not affect the provisions of § 354a of the German Commercial Code. The other party shall not refuse to provide its consent without any ground. Niterra shall provide its consent in accordance with the principle of good faith.

- 4.3 We shall not recognise any interest on maturity or restriction on the right to refuse performance, retention or setting off. Payments shall not affect our right to issue complaints or our guaranty or warranty claims towards the contractor. Niterra shall be entitled to set off receivables against the contractor due to any enterprise affiliated with Niterra in the meaning of § 15 of the German Stock Corporation Act (AktG).
- 4.4 All invoices billed to Niterra have to meet the taxable minimum requirements in line with § 14 UStG. Moreover, the order number provided by Niterra has to be applied to heading and position level and the contact person resp. the orderer has to be mentioned in the heading. If no deviating agreement is made, monthly collective invoices are compiled.
- 4.5 All invoices shall be sent in PDF format to the following e-mail address:
payables@ngkntk.de

5. Terms and conditions of delivery, transport

- 5.1 If no deviating agreement is made, deliveries shall be delivered according to DDP (see Incoterms 2010). The risk of accidental loss and accidental deterioration shall be borne by the contractor until acceptance. Any changes or amendments to the terms and conditions of delivery shall only be allowed if such are agreed upon in writing by the parties to the agreement. Niterra may move the delivery date not later than 30 days prior to the agreed-upon delivery date by means of written declaration without Niterra incurring additional costs as a result thereof. If the contractor does not expressly object to the stipulated delivery dates, such shall be deemed to have been bindingly agreed upon. These delivery dates and deadlines shall be binding and commence at the point in time of confirmation of the order. The point in time at which the delivery point stipulated by Niterra receives the goods shall apply in determining whether the delivery deadline has been met. The contractor shall be obligated to attach an inspection protocol on the outgoing goods inspection for every consignment it ships if Niterra has requested this in advance.
- 5.2 Our goods receiving is open from 9.00 a.m. to 4.00 p.m. Monday to Friday. If no other delivery address is stated on the order, all deliveries shall be sent to the following address:
Niterra EMEA GmbH, Harkortstraße 41, delivery entrance, 40880 Ratingen
- 5.3 All consignments shall be delivered taking into account special aspects communicated by Niterra. If Niterra does not issue any specific instructions, the type of packaging for the products shall be at the discretion of the contractor provided that the contractor selects a method of packaging that is in conformity with good business practice, is suitable for the products and provides adequate protection and adequate safety on the transport route and is ecologically sound. The contractor shall be obligated to adhere to statutory provisions within the framework of the delivery and transport of hazardous substances.
- 5.4 Partial consignments shall not be allowed unless Niterra has provided its consent to such. The contractor shall inform Niterra in writing in the event of short delivery. Niterra may demand that the contractor subsequently delivers short quantities as it sees fit. Excess deliveries shall only be recognised if Niterra confirms such in writing.
- 5.5 The contractor shall inform us of the official government permits and notification obligations for import and use of the objects in the consignment. If so requested by Niterra, the contractor shall attach proof of preference for all products. The declaration of long-term contractor in accordance with EEC Reg. 1207/2001 shall be submitted once a year. The contractor shall furthermore be obligated to adhere to applicable export provisions and notify us in writing of the export control number of the objects in the consignment no later than upon delivery without being requested to do so.

6. Additional material and tools provided

- 6.1 If Niterra provides the contractor raw materials, parts or tools within the framework of its production process, the remuneration accruing for such shall be laid down in a written agreement. Niterra may commission a third-party contractor to supply the materials directly to the contractor. In this case, Niterra shall inform the contractor in advance about the agreement with the third party. The contractor shall confirm receipt of the materials to

the third-party contractor and Niterra in writing. The contractor shall inspect the materials received within a receivable period and inform Niterra about any quality problems, quantity problems or any other problems with the goods. Niterra shall not be liable for damage that comes about as a result of delays on the part of the contractor or quality problems.

- 6.2 Niterra shall retain title to materials, tools, media or documents supplied by Niterra. The contractor shall store such separately from its own materials and tools to which it holds title until the materials or tools are used. The materials shall be treated as confidential material and the contractor shall not use such for any purpose other than to manufacture the products for Niterra. The contractor shall store this material carefully and shall bear the risk of accidental loss or damage. The contractor shall be obligated to permanently label equipment or tools that Niterra provides on loan as property of NITERRA. In the event that the material is linked up to other material for the purpose of manufacturing a product, Niterra shall become co-owner of the products manufactured using the material in the ratio of the value of the material provided by Niterra to the value of the product.
- 6.3 The contractor shall prepare a detailed inventory list of the materials provided free of charge at the end of each and every month and submit such to Niterra in the agreed-up form within the first 5 working days of the following month.

7. Warranty, liability for defect, delay

- 7.1 Checks and controls on incoming goods shall only be performed by Niterra to determine damage which is externally visible and any recognisable deltas in term of identity and quantity. Niterra shall issue a complaint about any such defects without undue delay. In addition, Niterra shall issue a complaint about defects to the consignment or performance as soon as such are determined in accordance with the features of a proper business process. The contractor thus waives any plea that complaints about defects have been issued too late and shall be obligated to react in writing within a reasonable period.
- 7.2 The warranty period shall apply for 36 months if no longer period is stipulated by law. This period shall commence upon the day of acceptance of the objects supplied or service rendered by Niterra or by a third party named by Niterra at the receiving or usage office or place stipulated by NITERRA. The time-barring of claims for defects shall enter into effect no earlier than two months after the claims of the final customer have been met, but shall end no later than 5 years after delivery to us.
- 7.3 If a product displays defects, the contractor shall be obligated to repair the product, replace it or - following return of the product - issue a credit note or reimburse the purchase price as Niterra sees fit. The contractor shall indemnify Niterra and the companies affiliated with Niterra from all claims and costs including the costs of attorneys that are asserted by third parties and (i) are based on a defect or (ii) which are the result of damage to other parties' objects or injury to life and limb if such violation was caused by manufacture, the sale or the use of the product or a defect to the products. The contractor shall perform the handling and satisfaction of such claims. The consequences described in the two preceding sentences shall not apply if the contractor is not to blame for the damage.
- 7.4 If Niterra EMEA GmbH decides in the case of warranty for subsequent performance by the contractor, subsequent performance shall also include the removal of the defective goods and the re-installation, provided that the goods were installed in another item or attached to another item in accordance with their type and intended use before the defect became apparent; our statutory claim for reimbursement of corresponding expenses (removal and installation costs) shall remain unaffected. The expenses necessary for the purpose of inspection and subsequent performance, in particular transport, travel, labour and material costs and, if applicable, removal and installation costs, shall be borne by the contractor even if it turns out that there was actually no defect. Our liability for damages in the event of an unjustified request to remedy a defect shall remain unaffected; in this respect, however, we shall only be liable if we recognised or were grossly negligent in not recognising that there was no defect.
- 7.5 In urgent cases or in the event that the contractor is in delay with fulfilment of the warranty obligations that it is responsible for, the contractor shall also be liable for damage that Niterra itself incurs. This shall also apply to the costs of a recall campaign that Niterra carries out according to dutiful discretion. In such cases, Niterra shall be entitled to have the defects rectified at the expense of the contractor or to procure replacements. In

such cases, Niterra shall provide the contractor the opportunity to state its position if a product that the contractor has delivered is the cause of the recall campaign.

- 7.6 The contractor shall be obligated to attend to warranty claims or damage claims that come about as a result of violations of intellectual property rights, liens of third parties, violations of patent rights, violations of copyright or any other violations of third-party rights unless such is solely due to the specifications or design requirements of Niterra. In such cases, the contractor shall support Niterra in every way that is reasonable to expect of it in rejecting the claims at its own expense.
- 7.7 The contractor shall be obligated to provide compensation for direct and indirect damage due to being late in effecting performance unless it is not responsible for such delay. If the contractor is unable to meet its obligation to effect delivery, it shall notify Niterra of other delivery dates without undue delay, including prior to the expiry of the delivery deadline or delivery period and state the reasons for the delay. Arrangements that become necessary because of such delay shall be notified by Niterra and followed by the contractor. In such cases, Niterra may (i) demand that the contractor deliver the products having priority, whereby the contractor shall bear the additional costs of such and if following the setting of a grace period performance is not rendered (ii) withdraw from the agreement. After the expiry of a grace period, Niterra may demand compensation for any and all direct and indirect damage that incurred as a result of the delay in delivery, especially for possible additional costs if Niterra withdraws from the agreement and has to purchase the products elsewhere. If the contractor contends that it is not culpable, the burden of proof shall be on the contractor. It shall not be necessary to set a grace period if (i) a certain delivery date was agreed upon, (ii) delivery was agreed upon in a certain period following a certain event or a certain action or (iii) the contractor has permanently and finally refused delivery or (iv) if the setting of a grace period is unreasonable as a result of other circumstances.

8. Contractor recourse

- 8.1 Niterra shall be entitled to our legally determined claims for expenses and recourse within a supply chain (contractor recourse pursuant to §§ 478, 445a, 445b50 or §§ 445c, 327 para. 5, 327u BGB) without limitation in addition to the claims for defects. In particular, Niterra are entitled to demand exactly the type of subsequent performance (repair or replacement) from the contractor that NITERRA owe Niterra's customer in the individual case; in the case of goods with digital elements or other digital content, this also applies with regard to the provision of necessary updates. Niterra's statutory right of choice (Section 439 (1) BGB) shall not be limited hereby.
- 8.2 Before Niterra acknowledge or fulfil a claim for defects asserted by our customer (including reimbursement of expenses pursuant to Sections 445a (1), 439 (2), (3), (6) sentence 2, 475 (4) of the German Civil Code), NITERRA shall notify the contractor and request a written statement setting out the facts briefly. If a substantiated statement is not made within a reasonable period of time and if no amicable solution is reached, the claim for defects actually granted by Niterra shall be deemed to be owed to Niterra customer. In this case, the contractor shall have the burden of proof to the contrary.
- 8.3 Niterra claims from contractor recourse shall also apply if the defective goods have been combined with another product or processed in any other way by Niterra, our customer or a third party, e.g. by installation, attachment or installation.

9. Producer liability

- 9.1 If the contractor is responsible for product damage, he shall indemnify Niterra against third-party claims to the extent that the cause lies within his sphere of control and organisation and he himself is liable in relation to third parties.
- 9.2 Within the scope of his indemnification obligation, the contractor shall reimburse expenses pursuant to Sections 683, 670 of the German Civil Code (BGB) arising from or in connection with a third party claim including recall actions carried out by Niterra. Niterra shall inform the contractor about the content and scope of recall measures - as far as possible and reasonable - and give him the opportunity to comment. Further legal claims shall remain unaffected.
- 9.3 The contractor shall take out and maintain product liability insurance with a lump sum coverage of at least EUR 5 million per personal injury/property damage and EUR 15 million in total for one year.

10. Quality management

In order to ensure that products meet the requirements of Niterra in terms of quality, reliability and safety and they exhibit a quality that such products normally have, the contractor shall set up a quality management system for the manufacture, use and testing of the products, insofar as the products are resold by Niterra. Such a system shall be based on internationally applicable quality management systems (e.g. IATF 16949, ISO9001, QS9000) or on Niterra's quality criteria. The contractor shall appoint an employee to be in charge of the quality management system. If Niterra so demands, the contractor shall provide Niterra an up-to-date report on the quality, reliability and safety of the products. Niterra shall be entitled to inspect the contractor's production sites and carry out periodical checks and controls. The contractor shall grant Niterra access to those production sites that are used for the production of the products if Niterra so requests. The contractor shall also grant Niterra access to quality inspection data and other information relating to the products. Niterra may issue recommendations based on the results of the inspection and the contractor shall take measures reasonable to expect of it in reaction to such recommendations.

11. The environment and substances posing an environmental threat

The contractor warrants that no substances are used in the manufacture of its products that pose a hazard to people, animals, property or the environment and which for this reason have been prohibited by German or international laws and regulations. The contractor shall notify Niterra in writing if to the knowledge of the contractor the use of material or products poses a hazard to people, animals, property or the environment regardless of whether such hazard be posed solely by such material or products in and of themselves or by such material and products in combination with other products or materials. In such case, Niterra shall be entitled to cancel any order without any payment obligation arising pursuant hereto. The contractor shall take into account environmental aspects associated with the products or services in a proactive, innovative manner. The express preference of the parties is to avoid and reduce damaging emissions into the atmosphere in the use and production of products and the rendering of services and transport. The contractor shall issue Niterra all information of relevance that bears importance to the environmental impact of the products or services if so requested by Niterra.

12. Inventions

- 12.1 The contractor shall notify Niterra in writing not later than one month prior to registration in the event of patents or improvements in products that have been brought about within the framework of the contractual relationship with Niterra and for which the contractor intends to register protective rights. This information shall be deemed to be confidential in the meaning of these Terms and Conditions of Purchase. The contractor shall be obligated to issue Niterra a non-exclusive license to this patent free of charge.
- 12.2 If an invention or improvement by the contractor is based in whole or in part on a not insignificant part on a drawing, on specifications, test data or other confidential information or material of Niterra, Niterra shall be entitled to become the owner or co-owner of the invention or improvement. If the contractor intends to apply for registration of such, the information obligation stipulated in the preceding section shall apply.

13. Non-disclosure, restriction on use

13.1 To the extent Niterra provides the contractor information, operating resources (such as, for example, tools), models, drawings, data sheets or a license, Niterra shall retain title to such and may at any time demand that such be returned or destroyed if it so desires. The business partner shall be obligated to keep such confidential, to refrain from making such available to third parties (including sub-contractors) without our written consent and to refrain from using such for any purpose other than the intended one. This shall also apply to reproductions and copies. The contractor shall only use the products manufactured with its help for Niterra. Such products may only be provided to Niterra and in no case to third parties on a final and permanent basis or for viewing. The non-disclosure obligation regarding confidential material shall not end upon the termination of the contractual relationship, but shall also continue to apply thereafter. The obligation shall end when the information can be demonstrated to have become publically known. The obligation shall not apply if the contractor already has the required know-how and operating resources, such as or become generally known or Niterra issues the contractor written approval to use such otherwise.

13.2 Notwithstanding the preceding section, the other respective party may disclose the confidential information or confidential material if and to the extent that this is ordered by a court of law or government authority provided that it informs the other party hereof a reasonable time in advance (so that the disclosing party has a reasonable opportunity to take action against the disclosure obligation).

13.3 The disclosing party warrants and assures that it is entitled to make confidential information and material available to the other party in accordance with the respective agreement. If not agreed upon otherwise in these Terms and Conditions of Purchase or the respective agreement, no party shall assume any additional warranty performance or guaranties of an express or implicit nature with regard to the confidential information or materials and shall make the confidential information and confidential material in accordance with this agreement available "as they are" with all their errors, mistakes and defects and without any warranty for completeness, correctness, ability to be sold or suitability for a certain usage.

13.4 In addition, the contractor shall treat all other information confidential relating to piece numbers, prices and company processes and transactions that are submitted to the contractor in connection with the execution of the order and also continue to maintain confidentiality regarding such after the termination of the business relationship. The contractor may not advertise its business relationship with us without our prior consent.

14. Compliance

14.1 The parties shall endeavour to their utmost to abide by, respect and adhere to all applicable laws and all other pertinent and applicable provisions relating to the production, purchase and sale of the products and on the whole in connection with the execution of the respective agreement. The contractor shall be responsible for taking the measures required to avoid any violations. To this end the contractor shall in particular subject the persons employed by it or third parties that it commissions to these obligations accordingly. If Niterra becomes aware during the course of the contractual relationship that the other party to the agreement is not abiding by applicable law or any other applicable provisions, Niterra reserves the right to withdraw from the agreement. The contractor shall be obligated to inform Niterra without undue delay if an investigative procedure has been initiated by a government authority.

14.2 The contractor shall act in conformity with respectively applicable national and international provisions on working conditions and the health and safety of employees. The contractor shall be responsible for its own sub-contractors and shall act to ensure that products and services that are supplied either in whole or in part by third parties are not manufactured in violation of national or international provisions governing working conditions and the health and safety of employees. The contractor shall improve social and ethical aspects in connection with the products or services in a proactive and innovative manner. If so requested by Niterra, the contractor shall issue information on the results of these efforts with regard to working conditions, the health and safety of employees and social responsibility.

15. Force majeure

Cases of force majeure, strikes and lock-outs shall exempt the contractual partner from the performance obligations for the period of the disruption and in the scope of their impact. With the proviso of any agreements to the contrary, if the contractor is prevented by force majeure from rendering its performances, Niterra reserves the right to withdraw from the agreement without such triggering any payment obligations in whole or in part if these events are not of an insignificant period of time and the needs of Niterra are reduced significantly as a result of procurement being effected elsewhere that has become necessary as a result. The parties to the agreement shall be obligated to provide the information required within the framework which is reasonable without undue delay and to adjust their obligation to the changed circumstances in good faith. The contracting parties shall also look for alternative possibilities and ways to continue to enable the fulfilment of the respective affected performance obligations and, if necessary, to adjust their obligations for the period of the disruption to the changed circumstances in good faith. As soon as the disruption no longer exists, the original performance obligations shall be fulfilled again.

16. General stipulations

16.1 This agreement is solely governed by German law without any recourse to international private law. The UN Convention on the International Sale of Goods (CISG) does not apply. The legal venue for all legal disputes that emanate directly or indirectly from the contractual agreements of the parties is the courts having jurisdiction over the registered offices of Niterra (40880 Ratingen). Niterra reserves the right, however, to take action against the contractor with the courts having general jurisdiction over its registered offices.

16.2 The legal invalidity of any part of these Terms and Conditions (including this clause) shall not have any influence on the validity of the other Terms and Conditions. Statutory provisions shall apply in place of any terms and conditions that have not become part of the agreement or have become null and void.

16.3 Personal data that accrues in connection with the contractual relationship shall be stored for the purpose of data processing (§ 28 of the German Data-Privacy Act (BDSG)).