

# SIEMENS

## General Terms and Conditions of Purchase of Goods and Services Siemens d.o.o. Beograd

### 1. Introductory Provisions

1.1. The present General Terms and Conditions of Purchase of Goods and Services (hereinafter: **"General Conditions"**) shall apply: (i) in all cases where *Siemens d.o.o. Beograd*, headquartered at Omladinskih Brigada 90v, Belgrade (hereinafter: **"Purchaser"**), performs legal transactions in the capacity of buyer of goods and/or services, or (ii) where these General Terms are referred to in any individual contract on purchase of goods and/or services, or in any Purchase Order, or in any other explicit manner agreed with the person supplying goods or performing services (hereinafter: **"Supplier"**).

### 2. Purchase Order and Confirmation Thereof

2.1. The Purchaser may cancel the Purchase Order sent to the Supplier, whose acceptance by the Supplier results in the conclusion of the contract whereby the Purchaser undertakes to accept the goods or services of the Supplier (hereinafter: **"Purchase Order"**), if the Supplier has failed to confirm receipt of the Purchase Order in writing within two weeks of receipt thereof (**"Confirmation of Purchase Order"**). The Purchase Order and/or the Confirmation of Purchase Order may be exchanged between the parties by way of electronic data interchange (EDI) if such a way of communication has been previously and explicitly agreed between the Purchaser and the Supplier.

2.2. The acceptance of Purchase Order involving any modifications and/or supplements thereto shall not be deemed entry into a contract without written consent by the Purchaser to such modifications and supplements. If the Confirmation of Purchase Order deviates from the Purchase Order, the Supplier is obliged to clearly indicate such modifications and supplements thereto in the Confirmation of Purchase Order. The General Terms and Conditions of the Supplier shall apply only if they do not contradict these General Conditions, or if the Purchaser has

expressly agreed to their application. No action on the part of the Purchaser, including the acceptance of goods and/or services, payment, etc., shall constitute an act of the Purchaser's acquiescence to the General Terms of the Supplier.

### 3. The Right of Use

3.1. With respect to the rights transferred from the Supplier to the Purchaser upon delivery of goods and/or services, the Supplier guarantees that the Purchaser may and authorises the Purchaser to use the goods and/or services and transfer them to others, to install them in other systems, and to freely dispose of them without any limitations regarding time, territory or otherwise, except where such limitations stem unambiguously from the nature of legal transaction, or where such limitations have been expressly indicated in the Confirmation of Purchase Order.

### 4. Delivery Deadline; Default; Consequences of Default

4.1. Unless otherwise agreed, the Supplier is obliged to deliver goods, and/or perform services without delay and within a reasonable deadline. This implied or expressly agreed period shall count from the day of issue of the Purchase Order. It shall be deemed that the Supplier has timely delivered goods if the goods that are the subject of delivery have been handed over to the Purchaser within the agreed deadline and at the agreed place, i.e. it shall be deemed that the service has been rendered in a timely manner if the Purchaser has accepted the works that are the subject of service within the agreed deadline and in the agreed manner. The time of acceptance of works concerning installation, assembling, etc. shall be the relevant time for assessing the timeliness of delivery in the case it is envisaged by the contract that the delivery of goods includes installation, assembly, etc., or if such delivery stems from the circumstances of the case.

4.2. If, based on the circumstances of the case, the Supplier suspects that the obligation owed to the Purchaser will not be met within

# SIEMENS

the agreed deadline, the Supplier shall immediately inform the Purchaser thereof.

**4.3.** In the case of default on the part of the Supplier, the Purchaser shall have the right to collect the contractual penalty, specifically:

- in the amount of 2% of the agreed price for each week of delay, if the agreed deadline for meeting the obligation that is being delayed was longer than 70 days;
- in the amount of 1% of the agreed price for each day of delay, if the agreed deadline for meeting the obligation that is being delayed was shorter than 70 days;

**4.4.** In any case, the contractual penalty for untimely performance of the obligation by the Supplier may not exceed 10% of the agreed price.

**4.5.** If the Supplier's obligation has not been met within the period in which the contractual penalty has reached its maximum, the Purchaser may terminate the contract and collect the contractual penalty in the amount of 10% of the agreed value as the contractual penalty payable for non-performance. The Purchaser shall have the same right and terminate the contract even before the time in which the contractual penalty reaches its maximum if the circumstances of the case show that the Supplier will not perform the obligation within that period.

**4.6.** Failure of the Purchaser to request the payment of contractual penalty upon the acceptance of performance shall in no manner constitute a presumption that the Purchaser has waived such a claim, and the Purchaser shall be entitled to request the payment of contractual penalty until the time of final calculation and payment, in which case the Purchaser shall be entitled to subtract the amount of contractual penalties from the payment owed to the Supplier.

**4.7.** The collection of contractual penalty does not preclude other rights of the Purchaser in the case of default or non-performance.

**4.8.** In the case of Supplier's delay in meeting the contractual obligations, i.e. in the case where it is reasonable to foresee such a delay, the Purchaser may, at the expense of the Supplier, take all reasonable and necessary measures in order to prevent or remedy the consequences of the delay.

**4.9.** The provisions of these General Conditions concerning the contractual penalty

shall not apply in the case where the performance deadline is an essential constituent element of the contract. In such case the contract shall be considered terminated at the moment of delay (unless the Purchaser has clearly demonstrated maintenance of the contract in force), which further authorises the Purchaser to claim the contractual penalty for non-performance in the amount of 10% of the agreed value.

## **5. Transfer of Risk, Transportation, and Place of Performance**

**5.1.** In the case of purchase of goods, the risk of loss of or damage to the goods transfers to the Purchaser at the moment of handover, while in the case of goods being installed or assembled the risk transfers to the Purchaser at the moment of acceptance of the assembly or installation.

**5.2.** Unless agreed otherwise, the Incoterm DDP (named place of destination) shall apply, and if the goods are to be delivered to a construction site or directly to third parties, the Supplier shall also bear the cost and risk of unloading the goods.

**5.3.** The goods the Supplier forwarded to the Purchaser shall be accompanied by the appropriate inventory and/or forwarding documentation, and the number of Purchasing Order shall be visibly displayed on the goods. The Supplier shall, without undue delay, send to the Purchaser the forwarding information along with the inventory.

**5.4.** In the case of early delivery, the Purchaser reserves the right to claim from the Supplier all additional costs caused by such delivery (including but not limited to storage and insurance expenses), as well as to effect the payment for the delivery and services in accordance with the contractual clauses regulating the delivery and payment. The risk of loss or damage of goods remains with the Supplier until the agreed date/time of delivery, except where the loss or damage occurred through the Purchaser's fault.

**5.5.** If the Supplier does not personally deliver the goods and there are no other instructions of the Purchaser, the Supplier shall organise the transportation with due diligence and under the most favourable market conditions. Should the Supplier fail to act in

# SIEMENS

this manner, the Purchaser shall have the right to subtract from the agreed price the difference in the expenses of transportation otherwise organised by the Supplier.

## **6. Suspension of Performance; Termination by Purchaser**

**6.1.** The Purchaser is authorised to order the Supplier to suspend the execution of contract at any time. Should such suspension last longer than three months, the Supplier may request the Purchaser to reimburse the Supplier for all reasonable and documented expenses caused by such suspension from that moment until the suspension of execution is over. Under no circumstances is the Supplier entitled to request the Purchaser to reimburse the Supplier for the profit lost or expenses incurred during the first three months of the suspension.

**6.2.** Until the time the Supplier has fully discharged its contractual obligations, the Purchaser may terminate the contract at its own discretion even when there is no fault on the part of the Supplier. In that case, the Supplier is entitled to request the agreed price for the performed obligations, and no other claims against the Purchaser are allowed.

## **7. Invoices**

**7.1.** The Supplier is obliged to specify on each submitted invoice both the number of the invoice and the number of Purchasing Order. Invoices must be prepared in a form enabling their control and easy comparison with the relevant Purchasing Order. Otherwise, the invoice shall be considered incomplete and shall not be honoured. All copies of invoices must be marked as duplicates.

**7.2.** The Supplier shall submit the invoice after the goods that are the subject of delivery have been received, i.e. after the services have been performed. If expressly stated or implied from the circumstances of the case that the delivery in question involves testing, quality control, etc., the delivery of relevant reports on the actions thus taken shall comprise an integral part of the obligation of the Supplier and its obligation shall not be met without such reports. Adequate discount on the price shall be granted should the Purchaser decide

to accept the performance which is deficient in comparison to the agreed quality. Otherwise, the Supplier's right to submit the invoice shall count only after all the deficiencies in the performance have been remedied. Besides the reduction of the price in the case of acceptance of deficient delivery, the Purchaser shall be able to exercise any other rights in accordance with the law.

## **8. Terms of Payment**

**8.1.** Unless agreed otherwise, the Purchaser shall be obliged to effect payment on the last day of the month following the month in which the invoice was delivered to the Purchaser.

**8.2.** In any case, payment shall not be understood as the acceptance of performance by the Purchaser, i.e. as the Purchaser's waiver of the right to object to deficiencies of such performance.

**8.3.** Liabilities of the Supplier owed under a contract in accordance with the present General Conditions may not be compensated with claims the Supplier has against the Purchaser on any other basis. The Supplier may cede the claims the Supplier has against the Purchaser only if such cession has previously been consented to in writing by the Purchaser.

## **9. Inspection at Acceptance**

**9.1.** At the time of discharge of the obligation, or immediately thereafter, the Purchaser shall perform inspection of the delivered goods and/or works in order to detect any visible deficiencies.

**9.2.** The Purchaser shall notify the Supplier of any deficiency thus established within 30 days of the day of the discharge, i.e. of the day of commencement of the use of the delivery, its assembly or further processing, i.e. of the day the deficiency has been identified.

**9.3.** The Supplier shall be liable for all deficiencies detected or emerging within two years of the day of delivery of goods or acceptance of works, unless a longer deadline is prescribed by separate legal provisions.

## **10. Liability for the Lack of Conformity**

**10.1.** In the case of deficiencies, the Purchaser is authorised to request that they be remedied

# SIEMENS

either by repair, or by delivery of the relevant goods without deficiencies, or by performing the relevant works in the agreed manner, or by reducing the agreed price to an equitable level. Additionally, the Purchaser is entitled to request payment of damages suffered by such performance.

**10.2.** Should the Supplier fail to remedy the deficiencies within the given deadline, the deficiencies may be remedied by the Purchaser itself or by engaging a third party, at the expense of the Supplier.

**10.3.** If the acceptance of delivery is conducted by way of inspecting randomised samples, and if any of the samples prove to be deficient, the Purchaser may reject the delivery as a whole. The Purchaser shall have the same right if any part of the delivery is deficient.

**10.4.** The Purchaser may terminate the contract without previously requesting that the deficiencies be remedied, in which case the Purchaser is entitled to request the contractual penalty payable for non-performance in accordance with the provisions of Article 4 of the present General Conditions.

**10.5.** In the case of partial performance, the Purchaser shall have the right to demand the performance in full, or to cancel the purchase in the part that has not been performed and to reduce the price equitably if the Purchaser has no interest in accepting such partial performance. If the Purchaser demands the performance in full, the time when the agreed amount of work or goods has been actually received shall be deemed the time of performance of the obligation. At any rate, the Purchaser shall be able to exercise all the rights referred to in Article 4 of these General Conditions.

## 11. Warranty

**11.1.** Warranty for the proper functioning of delivered goods, i.e. for the reliability of works performed shall be for two years.

**11.2.** Should any deficiencies show on the delivered goods or performed works during the warranty period, the Purchaser is authorised to request the Supplier to remedy such deficiencies in the manner to be determined at its discretion.

**11.3.** The Supplier shall remedy the claimed deficiency within a reasonable deadline set by

the Purchaser. Should the Supplier fail to remedy the deficiency within the given deadline, the Purchaser shall be authorised to remedy the deficiency itself or by engaging a third party, at the expense of the Supplier.

**11.4.** In addition to the right to request that deficiencies be remedied, the Purchaser is authorised to request payment of damages caused by such deficiencies.

**11.5.** Warranty shall start anew for the repaired or changed parts of goods or works. The warranty period shall also be extended for the period the Purchaser was deprived of the use of goods or works due to the deficiencies.

**11.6.** All rights of the Purchaser concerning the liability of Supplier for the lack of conformity based on the warranty shall be considered ceded to the end user of the delivered goods or services, if the Purchaser is not the end user. In that respect, the Supplier shall be obliged to indemnify the Purchaser from all claims of the end user, or to reimburse the Purchaser for the amount of such claims and all accompanying costs.

## 12. Materials of the Purchaser

**12.1.** In case the Purchaser provides the Supplier with materials necessary for the discharge of Supplier's obligation, such materials shall remain the property of the Purchaser. The Supplier shall take care of such materials with due diligence, keep them separately from other materials at the expense of the Supplier, and clearly mark the materials as the property of the Purchaser.

**12.2.** The Supplier is obliged to confirm receipt of the materials provided by the Purchaser. The Supplier may use such materials solely for meeting its obligations towards the Purchaser. Once the materials have been handed to the Supplier, the Supplier shall be liable for any damage to the material. Any damage claims for delays in the provision of materials and the right of retention (lien) are precluded.

**12.3.** The objects made by the processing and use of the materials are the property of the Purchaser.

## 13. Drawings, Sketches, Samples, Tools, etc.

# SIEMENS

**13.1.** If, for the purposes of discharge of Supplier's obligations, the Purchaser provides the Supplier with drawings, sketches, tools etc., or gives instructions or advice that are or may be the subject of intellectual property rights, they shall remain the property of the Purchaser, while the Supplier shall use the objects thus provided solely for meeting the obligations towards the Purchaser, and return them to the Purchaser upon execution of the obligations. Any transfer of the objects to third parties shall be allowed only upon written consent of the Purchaser. Upon meeting the obligations towards the Purchaser, the Supplier shall return to the Purchaser all the objects thus provided or destroy all recording media containing the information referred to in this Article.

**13.2.** The Purchaser is authorised to request from the Supplier any drawings, sketches, plans, projects, specifications, etc. used by the Supplier in meeting its obligations towards the Purchaser, which were not previously obtained by the Purchaser.

## **14. Special Conditions Concerning Hardware and Software**

**14.1.** Unless agreed otherwise, hardware and software shall always comprise a single product.

**14.2.** If the Supplier is obliged to deliver software that was not developed individually for the Purchaser, the Supplier shall grant the Purchaser a transferrable and non-exclusive licence to use the software. Unless otherwise agreed or implied from the circumstances of the case, such licence shall be of unlimited duration.

**14.3.** For software products that are developed individually for the Purchaser, the Supplier shall grant the Purchaser an exclusive and transferrable licence to use the software; the licence shall be of unlimited duration and shall exclude the right of Supplier to use the software for any purpose. Unless otherwise agreed, software shall be delivered along with the source code of its latest version. The Purchaser is authorised to perform modifications of such software without consent of the Supplier.

**14.4.** The Supplier is obliged to install the software. Upon installation, the Supplier shall

provide a data carrier that may be displayed in the Purchaser's system, both in the form of source code and object code, together with the relevant documentation (contents and structure of data carrier, programme and data flow diagrams, test procedures, test programmes, error processing, etc.). In addition to such documentation, the Supplier shall provide a sufficient number of copies of comprehensive written documentation for the user in the English language.

**14.5.** The software developed individually for the Purchaser shall be accepted in the form of written acceptance protocol, provided that the software meets the agreed requirements and specifications. Any corrections to be effected by the Supplier shall also be included in the acceptance protocol.

**14.6.** During the warranty period, the Supplier undertakes to provide the Purchaser with all the subsequent versions of software in which errors were eliminated (updates), free of charge. The supplier also undertakes to offer the Purchaser software maintenance services for competitive market prices for the period of at least five years following the acceptance date. Within the warranty period, the maintenance costs shall be duly lowered.

**14.7.** The Supplier shall inform the Purchaser, no later than the time the Purchase Order is confirmed, whether the products and services to be delivered contain open source software. Should the Supplier fail to inform the Purchaser that the Supplier's products and services contain open source software, the Purchaser is entitled to cancel the Purchase Order and request the payment of damages.

## **15. Confidentiality; Data Protection; Subcontractors**

**15.1.** The Supplier undertakes to maintain as confidential all the information concerning the Purchaser or the scope of contract, unless such information has become publicly available or known to the Supplier in another lawful manner. Moreover, the Supplier undertakes to keep as confidential any results or partial results obtained in the implementation of Purchase Order, and to use such results solely for the implementation of the relevant Purchase Order. Should the Supplier engage a third party in the discharge

# SIEMENS

of its contractual obligations, the Supplier shall ensure that the third party is contractually bound to maintain at least the same level of confidentiality.

**15.2.** The same shall apply to any personal data about the employees of the Purchaser or any other third party data obtained by the Supplier in relation to the contract. The Supplier is bound to protect such information from becoming available to any third party, to ensure compliance with the Law on Personal Data Protection, and to oblige its employees performing duties in relation to the contract to the same level of confidentiality.

**15.3.** The Supplier shall agree that the Customer forward the data about the Supplier and transactions that is obtained within the course of business or order performance to other companies within the Siemens corporation for the following purposes:

a) provision of information (e.g. purchase pooling), b) reporting for statistical purposes, c) risk management. The Customer and other companies within the Siemens corporation shall have the right to send to the Supplier information about goods and services in writing or by email, and to contact it using any channel of communication. This consent may be cancelled by the Supplier at any time and, in such case, the Customer undertakes to cease any such communication based on a written request made by the Supplier.

**15.4.** The Customer shall, as a rule, process data about the Supplier (data from the business register, address, phone and fax numbers, and other data necessary for communication by way of modern communication tools, locations, contact persons, goods ordered and supply volume) deriving from individual business events automatically by employing information technology and only in relation with the execution of the respective Order, i.e. especially for administrative and accounting purposes. Due to logistical reasons, the Customer reserves the right to store the data on servers of other affiliated companies.

**15.5.** The Customer shall process personal data only in compliance with all applicable regulations governing data protection. During operations with the Supplier, the Customer shall process the personal data of contact persons at the Supplier, interested parties

(potential suppliers) or other business partners. Details of the categories of the processed data, the purposes of processing and legal grounds are available in the Siemens Privacy Policy – they are available in detail on the Customer’s homepage at the following link: [Privacy Policy](#).

**15.6.** Notwithstanding the provisions of this Chapter, the Supplier shall be entitled to disclose or forward Confidential Information if so required by any ruling of a governmental or regulatory authority or court or by mandatory law. Such disclosure or forwarding shall be allowed provided that written notice thereof is given to the Customer without undue delay and provided all reasonable efforts are used to assure Confidential Information will be treated confidentially. Confidential Information disclosed pursuant to this Article must be marked as “CONFIDENTIAL” or with any other comparable designation.

**15.7.** The Supplier shall not assign its obligations towards the Purchaser to any third party – subcontractor, without written consent of the Purchaser. Should such consent be given, the Supplier undertakes to effect such assignment ensuring that all the rights and interests of the Purchaser are protected in accordance with the present General Conditions.

**15.8.** The Supplier agrees that the Purchaser may assign the contract to any other member of the SIEMENS Group without special consent of the Supplier.

## **16. Export Control and Foreign Trade Data Regulations**

**16.1.** For all Products to be delivered and Services to be provided, Supplier shall comply with all applicable export control, customs and foreign trade regulations (“Foreign Trade Regulations”) and shall obtain all necessary export licenses, unless Purchaser or any party other than Supplier is required to apply for the export licenses pursuant to the applicable Foreign Trade Regulations.

**16.2.** Supplier shall advise Purchaser in writing as early as possible but not later than (7) days prior to the Delivery Date of any information and data required by Purchaser to comply with all Foreign Trade Regulations for the Products and Services applicable in the countries of

# SIEMENS

export and import as well as re-export in case of resale. In any case Supplier shall provide Purchaser for each Product and Service:

- the "Export Control Classification Number" according to the U.S. Commerce Control List (ECCN) if the Product is subject to the U.S. Export Administration Regulations; and
- all applicable export list numbers (AL); and
- the statistical commodity code according to the current commodity classification for foreign statistics and the HS (Harmonised System) code; and
- the country of origin (non-preferential origin); and
- upon request by Purchaser: Supplier's declaration for preferential origin (in case of European suppliers) or preferential certificates (in case of non-European suppliers) („Export Control and Foreign Trade Data“).

**16.3.** In case of any alterations to origin and/or characteristics of the Products and Services and/or to the applicable Foreign Trade Regulations Supplier shall update the Export Control and Foreign Trade Data as early as possible but not later than (7) days prior to the Delivery Date. Supplier shall be liable for any expenses and/or damage incurred by Purchaser due to the lack of or inaccuracy of said Export Control and Foreign Trade Data.

**16.4.** Siemens shall not be obligated to fulfil this agreement if such fulfilment is prevented by any impediments arising out of national or international foreign trade or customs requirements or any embargoes or other sanctions.

**16.5.** For the provision of Goods and Services under this General Conditions, the Supplier shall only use employees who are not listed in the relevant national, European and US-American sanctions lists based on foreign trade legislation. These lists include, but are not limited to, the US Denied Persons List (DPL), the US Unverified List, the US Entity List, the US Specially Designated Nationals List, the US Specially Designated Terrorists List, the US Foreign Terrorist Organizations List, the US Specially Designated Global Terrorists List and the EU's Terrorist List.

## **17. Compliance Provisions; Security in the Supply Chain**

**17.1.** In the course of meeting the obligations that are the subject of the contract and other activities directly or indirectly related to the contract, the Supplier undertakes to comply with all applicable labour, employment, obligatory social contributions, tax, anti-corruption, antitrust, anti-money laundering, environmental protection and other laws and provisions, to refrain from any actions that might constitute bribery, violation of fundamental rights of the employee or child labour regulations. The Supplier takes responsibility for health and safety of its employees, is obliged to act in accordance with the effective environmental protection laws, and to invest maximum efforts in promoting the Code of Conduct among its suppliers.

**17.2.** If workers illegally employed or engaged in any other illegal manner by the Supplier are found on the construction site on which works and/or services in connection with the performance of an individual contract on purchase of goods and/or services are performed, the Supplier shall pay the Purchaser a contractual penalty of € 5,000 per illegally employed worker and day of employment, without prejudice to further consequences and claims which Purchaser has pursuant to this General Terms and Conditions and the Law.

**17.3.** Additionally, the Supplier confirms that no part of payment effected by the Purchaser will, directly or indirectly, be used for securing an improper business advantage or gains for the Purchaser.

**17.4.** The Supplier hereby represents and warrants that the bank accounts to which the funds will be transferred on the basis of fulfilment of the contract are kept in its name and exclusively for its own account.

**17.5.** All payments to the Supplier shall be effected via electronic transfer between bank accounts. The Purchaser shall not make payment to the Supplier in cash or any other bearer instruments, or to a bank account in a country other than the country of Supplier's registered office, or in a country where services have not been provided, and no payment shall be effected, directly or indirectly, via a trust company, intermediary institution, or a third party.

# SIEMENS

**17.6.** Compliance with these provisions by any subcontractor of the Supplier also comprises an essential obligation of the Supplier.

**17.7.** The Supplier shall provide the necessary organisational instructions and take measures, particularly with regard to the following aspects of security: premises security, packaging and transport, business partner, personnel and information – in order to guarantee the security in the supply chain in accordance with the requirements of respective internationally recognised initiatives based on the WCO SAFE Framework of Standards. The Supplier is obliged to protect the goods and services that are the subject of contract against unauthorised access or manipulation. The Supplier shall oblige all its subcontractors to take equivalent security measures.

**17.8.** Failure to comply with these regulations shall constitute a fundamental breach of the contract and entitles the Purchaser to termination of the contract with immediate effect.

## **18. International Law; Competent Court**

**18.1.** All disputes arising from the contract shall be settled before the Commercial Court in Belgrade, and the law of the Republic of Serbia shall be applicable. The application of the United Nation Convention on Contract for the International Sale of Goods is precluded.