

## General Terms of Procurement

Pilz GmbH & Co. KG  
Felix-Wankel-Straße 2  
73760 Ostfildern, Germany  
(hereafter known as "PILZ")  
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### 1. Scope, form

1. These General Terms of Procurement shall apply to all contracts between Pilz GmbH & Co. KG ("Pilz") and its contracting parties as follows:

- Contractors on the basis of contracts for services or work
- Sellers of goods (hereinafter collectively: "Contracting Parties")

The General Terms of Procurement shall only apply if the seller is an entrepreneur (Section 14 of German Civil Code [BGB]), a legal person under public law or a public fund.

2. The General Terms of Procurement shall apply in full to contracts on the sale and/or supply of movable items ("Goods"), irrespective of whether the seller manufactures the Goods itself or purchases them from suppliers (Sections 433, 650 BGB).

For contracts for work (not: contracts for work and materials), merely numbers 1, 2, 3, 4, 6, 14 and 15 of the following provisions shall apply.

For contracts for services, merely numbers 1, 2, 3, 4, 14, 15, 16 and 17 of the following provisions shall apply.

In addition, the statutory regulations shall apply to contracts for work and contracts for services.

4. Unless otherwise agreed, the General Terms of Procurement shall apply in the version applicable at the time of the order placed by Pilz or in any event last communicated in text form as a framework agreement also covering similar future contracts without the need for Pilz to refer to them again in every single case.

5. These General Terms of Procurement shall apply exclusively. Differing, conflicting or supplementary General Terms and Conditions of the Contracting Party of Pilz shall only become part of the agreement if and to the extent that Pilz has expressly consented to their validity in writing. This consent requirement shall always apply, for example including if Pilz accepts or pays without reservation for the supplies and services of the Contracting Party in the knowledge of its General Terms and Conditions.

6. Individual agreements reached with the Contracting Party in individual cases (including ancillary agreements, supplements and amendments) shall always take precedence over these General Terms of Procurement. Subject to proof to the contrary, a written contract or written confirmation by Pilz shall be decisive with regard to the content of such agreements.

7. Legal declarations and notices by the seller in respect of the contract (e.g. setting of deadlines, reminding, withdrawal) shall be submitted in writing, i.e. in written or text form (e.g. letter, e-mail, fax). Statutory formal requirements and further evidence in particular in case of doubts concerning the legitimacy of the declarer remain unaffected.

8. References to the validity of statutory regulations shall have only clarifying significance. The statutory regulations shall also apply without such a clarification

insofar as they are not directly amended or explicitly excluded in these General Terms of Procurement.

### 2 Conclusion of contract

1. The order by Pilz shall be considered binding at the earliest with its written submission or confirmation. The Contracting Party shall draw the attention of Pilz to obvious mistakes (e.g. typing and calculation errors) and incompleteness of the order and order documents so that details can be corrected or completed prior to acceptance. The contract shall otherwise be considered not concluded.

2. Orders shall be confirmed in writing by the Contracting Party within five working days (acceptance).

3. Pilz and the Contracting Party shall each be entitled to apply in writing for the contractual services to be changed, supplemented and extended. Pilz or the Contracting Party shall examine the feasibility of this change following receipt of a change request. The outcome of this examination shall be indicated to the opposite party without delay and in writing. The contractual adjustments required to change, supplement and extend the contractual services shall be determined in an additional agreement.

### 3. Prices and terms of payment

1. The price stated in the order is binding. All prices are quoted carriage paid inclusive of statutory sales tax where it is not shown separately.

2. If the contract concerns a non-fungible article (one-off piece) to be manufactured by the Contracting Party or a piece of work that is wholly subject to contract law for work and labour, and if a cost estimate serves as the basis of business, the Contracting Party shall notify Pilz immediately in writing if it expects that the cost estimate will be significantly exceeded. A significantly exceeded cost estimate is where the net price increases by 10 % or more.

3. Price increases that the Contracting Party attributes e.g. to subsequently increased costs shall only become part of the contract if Pilz expressly gives its consent to the price increases.

4. Unless otherwise agreed in individual cases, the price shall include all services and ancillary services of the Contracting Party (e.g. assembly, installation) as well as all incidental costs (e.g. proper packaging, shipping costs including any insurance for goods in transit and third-party liability).

5. Cost estimates, visits, the preparation of drafts, computations, calculations, quotations and projects shall not be remunerated by Pilz.

6. Unless otherwise agreed in individual cases, the agreed price shall be payable within 30 calendar days of complete delivery and performance (including acceptance, where agreed or statutorily required in the case of a contract for work) as well as of receipt of a proper invoice. For payment within 14 calendar days, the Contracting Party shall grant Pilz 3 % discount on the net amount of the invoice.

7. For purchase contracts or contracts for work and materials, the Pilz order number, the Pilz material number and the statistical commodity code shall be stated on the invoice of the Contracting Party. If these particulars are missing or incorrect, Pilz reserves the right to return the invoice unpaid to the Contracting Party for supplementing or correction. In this case the payment period shall begin only upon receipt of the supplemented

or corrected invoice by Pilz. The same shall apply if the delivery note is incomplete or incorrect.

8. Pilz shall not incur default interest. The statutory regulations shall apply to overdue payments.

9. Pilz shall have the statutory rights of offsetting and retention and to object to non-fulfilment of contract. This includes in particular the right of Pilz to withhold payments due while Pilz still has outstanding claims against the Contracting Party for incomplete or defective supplies and services.

10. The Contracting Party shall only have a right of offsetting or retention for counterclaims that have been declared legally valid or are undisputed.

### 4. Terms of service

Without the prior written consent of Pilz, the Contracting Party shall not be entitled to subcontract its services owed to third parties (e.g. subcontractors).

The Contracting Party shall bear the procurement risk for its services unless otherwise agreed in individual cases.

### 5. Terms of delivery

1. Delivery within Germany shall be as defined in Incoterms "CIP (Carriage and Insurance Paid)" to the place of delivery stated in the order.

If the Contracting Party delivers from abroad, the Incoterm condition "DAP (Delivered At Place)" shall apply.

If the destination is not stated and unless agreed to the contrary, delivery shall be to the registered office of Pilz in Ostfildern.

2. The destination in each case shall also be the place of performance for the delivery and service and for any subsequent performance (obligation to be performed at creditor's domicile).

3. All deliveries shall be made in accordance with the applicable provisions of the German Hazardous Substances Ordinance (GGVS).

4. The delivery shall be accompanied by a delivery note stating

- Date (of issue and dispatch),
- Contents of the delivery (article number and quantity),
- Pilz order no.,
- Pilz material no.,
- Statistical commodity code,
- Component weight, and
- Country of origin.

5. The Contracting Party shall only be entitled to make partial deliveries or provide partial services with the written consent of Pilz.

### 6. Passage of risk and default of acceptance

1. With handover of the article at the place of performance, the risk of accidental loss and accidental deterioration shall pass to Pilz. If acceptance has been agreed, this shall be definitive for the passage of risk. The statutory regulations of contract law for work and labour shall otherwise apply correspondingly to acceptance. If Pilz is in default of acceptance, handover or acceptance is deemed to have taken place.

2. The statutory regulations shall apply when determining whether default of acceptance applies. However, the

Contracting Party must also expressly offer its service to Pilz if a defined or definable calendar period has been agreed for action or assistance by Pilz. If Pilz defaults on acceptance, the Contracting Party may demand reimbursement of its additional expenses in accordance with the statutory regulations (Section 304 BGB). If the contract concerns a non-fungible article (one-off piece) to be manufactured by the Contracting Party, the Contracting Party shall only have further rights if Pilz undertakes to assist and is responsible for a failure to assist.

## 7. Default

1. The delivery period stated in the order is binding. If the Contracting Party expects to be unable to honour the delivery period – for whatever reason – it is obliged to notify Pilz in writing immediately, stating the reasons and the expected delay to delivery.

2. If the Contracting Party does not perform its service or does not do so within the agreed delivery period or is in default, the rights of Pilz – particularly regarding withdrawal and compensation – shall be determined by the statutory regulations.

3. If the Contracting Party is in default, Pilz may – in addition to further statutory entitlements – demand flat-rate compensation by way of default damages amounting to 1 % of the net price per completed calendar week, but no more than a total of 5 % of the net price of the Goods delivered late.

Pilz reserves the right to demonstrate that higher losses have arisen. The Contracting Party reserves the right to demonstrate that no losses whatsoever or only much lower losses have arisen.

## 8. Characteristics

1. If the order from Pilz contains technical specifications, technical delivery instructions, drawings, samples, particulars or other requirements, these shall be definitive for the nature, characteristics and execution of the ordered item or service to be performed.

2. If Pilz and the Contracting Party have agreed that Pilz will first receive type or initial samples before the start of series production of the delivery items, the characteristics for series production shall additionally reflect the samples approved in writing by Pilz.

3. The Contracting Party shall notify Pilz immediately in writing before the start of series production if it has reservations about Pilz specifications. In such cases, series production shall only be started after further written instruction from Pilz.

4. The contractor is advised that the ordered item may also be built into Pilz products (safety relays, programmable safety and control systems as well as other products in the field of safety technology) and that the unrestricted functionality of the ordered item must therefore be guaranteed. If the contractor has not manufactured the ordered item itself, it shall inform the manufacturer or upstream supplier accordingly. It is mutually agreed that, for the purposes of these conditions, functionality only exists if there is compliance with the relevant accident prevention regulations.

## 9. Notice of defect

For the commercial duty to examine and to notify defects, the statutory regulations (Sections 377, 381 of the German Commercial Code [HGB]) shall apply with the following restriction:

The duty of Pilz to examine is limited to defects that are obvious in the incoming goods inspection at Pilz (e.g. damage in transit, incorrect and short delivery) or are identifiable in the quality control conducted by Pilz taking random samples. If acceptance is agreed, there shall be no duty to examine. The duty of Pilz to give notice of defects discovered later remains unaffected. Notwithstanding the duty to examine, notice of defects shall always be deemed immediate and prompt if it is sent within five working days of discovery or, in the case of obvious defects, from the time of delivery.

## 10. Guarantee against material defects

1. Unless specified to the contrary in the following, the rights of Pilz with regard to material defects to the items (including incorrect or short delivery as well as incorrect assembly and defective assembly instructions or operating manual) – defects of title are an exception; these are governed by Number 11 – Defects of title – of these General Terms of Procurement – and with regard to other derelictions of duty by the Contracting Party are covered by the statutory regulations.

2. Under the statutory regulations the Contracting Party is liable especially for ensuring that the items possess the agreed characteristics upon the passage of risk to Pilz. The agreed characteristics shall always constitute those product descriptions that – in particular by designation or reference in the order by Pilz – are the subject matter of the respective contract or have been incorporated into the contract in the same way as these General Terms of Procurement. It is irrelevant whether the product description originates from Pilz, the Contracting Party or the manufacturer.

3. In a departure from Section 442 (1) second sentence BGB, Pilz shall also be able to claim without restrictions for defects if the defect remained unknown to Pilz due to gross negligence upon conclusion of the contract.

4. Subsequent performance also includes removal of the defective item and renewed installation, provided the item was installed in another article or fitted to another item in accordance with its nature and purpose; the statutory entitlement of Pilz to reimbursement of the expenses incurred remains unaffected. The Contracting Party shall bear the expenses incurred for inspection and subsequent performance including if it emerges that no defect actually existed. Pilz's liability to compensate for unjustified requests to rectify defects remains unaffected; to that extent Pilz shall, however, only be liable if Pilz has recognised or through gross negligence not recognised that no defect existed.

5. Irrespective of the statutory rights of Pilz and the stipulations in Para. 4, the following shall apply: if the Contracting Party does not meet its obligation of subsequent performance – by removal of the defect (rectification) or by delivery of a fault-free article (replacement delivery) – within a suitable period set by Pilz, Pilz at its discretion may remove the defect itself and demand that the Contracting Party reimburse the expenses incurred by this or advance an appropriate sum. If subsequent performance by the Contracting Party has failed or is unacceptable to Pilz (e.g. because of particular urgency, a threat to operational safety or the impending occurrence of unreasonable damage), no period shall need to be set; Pilz shall notify the Contracting Party of such circumstances immediately, or if possible beforehand.

6. In addition, in the case of a material defect under the statutory regulations, Pilz shall be entitled to a reduction in the purchase price or to withdraw from the contract. Under the statutory regulations Pilz shall moreover be entitled to compensation and reimbursement of expenses.

## 11. Guarantee against defects of title

1. The Contracting Party guarantees that the items are delivered free of third-party rights and that no third-party rights are infringed by the delivery.

2. In the event of defects of title, i.e. if third parties make justified claims against Pilz on the grounds of a breach of property rights by items supplied by the Contracting Party and used in the contractually agreed manner or reworked, with timely notice of defect pursuant to Number 9 of these General Terms of Procurement the Contracting Party provides a guarantee that it shall obtain a lawful way for Pilz to use and further process the items affected or modify or exchange the items affected in such a way that the property right is not breached.

3. If the Contracting Party is unable to provide the guarantee, the rights of Pilz to withdrawal and purchase price reduction shall be in accordance with the statutory regulations.

4. The obligation of the Contracting Party to pay compensation or reimburse expenses shall be in accordance with the statutory regulations.

5. Pilz shall inform the Contracting Party if third parties enforce property rights to the items affected. Pilz authorises the Contracting Party to settle the dispute with the third party on its own, whether in or out of court. The Contracting Party shall contest or satisfy the claims in consultation with Pilz. Provided the Contracting Party exercises this authorisation, Pilz shall not independently recognise the claims of the third party without the consent of the Contracting Party. The Contracting Party shall contest the claims of the third party at its own expense and release Pilz from all costs associated with contesting these claims, provided these do not arise as a result of behaviour by Pilz in breach of its duty.

## 12. Supplier recourse

1. Pilz shall without restriction enjoy the statutory defined claims of recourse within a supply chain (supplier recourse pursuant to Sections 445a, 445b, 478 BGB), as well as the entitlement to claim for defects. Pilz is in particular entitled to demand precisely the type of subsequent performance (rectification or replacement delivery) from the Contracting Party that Pilz owes its client in individual cases. This does not restrict the statutory right of Pilz to choose (Section 439 (1) BGB).

2. Before Pilz recognises or fulfils a claim for defects enforced by its client (including reimbursement of expenses pursuant to Sections 445a (1), 439 (2) and (3) BGB), we shall notify the seller and request a written statement based on a brief presentation of the matter. If no substantiated statement is provided within an appropriate period nor any mutually agreeable solution achieved, the claim for defects effectively allowed by Pilz shall be considered due to its client. In this case it shall be incumbent upon the seller to provide proof to the contrary.

3. The entitlements of Pilz from supplier recourse shall also apply if the defective Goods were processed by Pilz or another entrepreneur, e.g. by installation in another product.

## 13. Limitation of claims due to material defects and defects of title

1. The mutual entitlements of the Contracting Parties shall be limited in accordance with the statutory regulations, unless specified to the contrary in the following.

2. In a departure from Section 438 (1) No. 3 BGB, the general limitation period for claims for defects shall be three years from the passage of risk. If acceptance is agreed, limitation shall commence with acceptance. The three-year limitation period shall also apply correspondingly to claims from defects of title, not affecting the statutory limitation period for real rights of third parties to demand return (Section 438 (1) No. 1 BGB); over and above this, claims from defects of title shall never become limited for as long as the third party can still enforce the right – in particular in the absence of limitation – against Pilz.

3. The limitation periods of commercial law including the above extension shall apply – to the statutory extent – to all contractual claims for defects. If Pilz also enjoys non-contractual compensation claims for a defect, the regular statutory limitation period (Sections 195, 199 BGB) shall apply unless application of the limitation periods of commercial law would lead to a longer limitation period in individual cases.

4. Agreement by the Contracting Party to rectify the defect shall constitute acknowledgement that the limitation period restarts.

5. Limitation shall in addition be suspended if

- both parties are in negotiation on an obligation of subsequent performance or
- the Contracting Party expressly renders subsequent performance "out of goodwill".

## 14. Product liability

1. If the Contracting Party is responsible for product damage, it shall indemnify Pilz against third party compensation claims that originate within its area of control and organisation and provided it is itself liable towards third parties.

2. Under its indemnity obligation the Contracting Party shall reimburse expenses pursuant to Sections 683, 670 BGB that arise from or in connection with a third-party claim, including from product recalls conducted by Pilz. As far as reasonably possible, Pilz shall notify the Contracting Party of the substance and scope of recall measures and give it the opportunity to respond. Statutory claims over and above these remain unaffected.

## 15. Insurance

1. The Contracting Party is obliged always to maintain third-party liability and product liability insurance on customary terms for the industry that provides adequate cover (third-party liability insurance: at least EUR 1.5 million per loss event, product liability insurance: at least EUR 10 million per loss event) for the period of the contract with Pilz (including any warranty and limitation periods).

2. The Contracting Party shall forward a duplicate of the valid insurance contracts to Pilz on request.

## 16. Confidentiality

1. The Contracting Party shall protect confidential information, i.e. all data and information of which it receives knowledge in connection with the contractual relationship with Pilz (hereinafter: "Confidential Information"), such as illustrations, drawings, plans, executive instructions, product descriptions, drafts, models, samples, calculations and other documents or articles. The Contracting Party undertakes to use Confidential Information only for the purposes of the

contract concluded with Pilz and not to circulate it among or otherwise disclose it to third parties without the prior express written consent of Pilz.

2. The Contracting Party is obliged to protect Confidential Information against access by third parties. The Contracting Party shall exercise the same care in this respect that it would take in handling its own confidential information, but at least due care.

The Contracting Party is obliged to secure from its employees the same obligations to protect Confidential Information.

The Contracting Party shall notify Pilz immediately in writing if it acquires knowledge of an impending or existing breach of the confidentiality agreement or has suspicions to that effect.

3. The obligation to protect Confidential Information shall cease to apply if the Contracting Party can prove that

- this Confidential Information was already known to it prior to the disclosure of this information by Pilz
- it has lawfully received this Confidential Information from third parties without imposition of a confidentiality obligation, without it having any evidence that the third parties are in breach of confidentiality obligations imposed on these third parties
- the Confidential Information is generally known or became generally known without breaching this confidentiality obligation
- this Confidential Information was or is developed by the Contracting Party independently of its disclosure by Pilz.

4. Pilz reserves all rights to the Confidential Information (including copyrights, the right to register industrial property rights and patents, utility models, topography rights, designs, brands) and rights of ownership to the items made available and containing the Confidential Information (papers, disks etc.).

In no case shall rights of ownership, licence, reproduction, utilisation or other rights be granted to the customer for Confidential Information of Pilz, regardless of whether such information is covered by property rights or not. In the case of items or documents over which Pilz holds property rights and/or which are protected as commercial/company secrets, the Contracting Party shall only be permitted to use the item in accordance with Pilz's express conditions, unless specific usage methods are permitted to a third party.

5. At the request of Pilz, the Contracting Party shall immediately return all Confidential Information received from Pilz. Confidential Information shall be returned unprompted to Pilz free of charge once it is no longer needed. The Contracting Party shall have no right of retention to these documents or items. An exception shall apply merely to copies that must be archived in fulfilment of binding statutory requirements. All Confidential Information present on computers shall be deleted upon request.

6. The customer shall be liable for loss and damage where it is responsible for these.

7. The confidentiality agreement shall apply for three years after the end of the contract.

## 17. Data protection, final provisions

1. The Contracting Party is obliged to observe the statutory provisions on data protection. In particular, the employees of the Contracting Party shall be obliged to comply with the data protection laws.

2. The laws of the Federal Republic of Germany shall apply, with the exclusion of the United Nations Convention on Contracts for the International Sale of Goods dated 11 April 1980 (UN Sales Convention).

3. If the Contracting Party is a merchant within the meaning of the German Commercial Code, a legal person under public law or a public fund, the exclusive – and international – place of jurisdiction for all disputes arising from the contractual relationship shall be the domicile of Pilz in Ostfildern. The same shall apply if the Contracting Party is an entrepreneur within the meaning of Section 14 BGB. In all cases, however, Pilz shall also be entitled to bring an action at the place of performance of the delivery obligation pursuant to these General Terms of Procurement or to an overriding individual agreement, or at the general place of jurisdiction of the Contracting Party.