

# General Terms of Purchase

## For used company IT systems

### 1 Offer to Purchase and Order Confirmation

1.1 All purchases of used IT systems ("IT systems") will exclusively be subject to the Terms of Fujitsu Technology Solutions ("FTS") as specified below. FTS will only be bound to supplementary General Terms and Conditions of the contractor if these are in accordance with the terms specified below, or if FTS has consented to the contractor's terms in writing.

1.2 Offers to purchase on the part of FTS will be made in writing and must be confirmed in writing within the acceptance period specified in the offer to purchase (order confirmation). Once an offer has been made and accepted as set out in this clause 1.2 the offer becomes binding for the relevant equipment. In case the contractor then cancels the order either before or after delivery, FTS may have claims against the contractor, e.g. but not limited to claims for damages (e.g. due to loss of profit etc.).

1.3 If the delivery or service deviates from the offer to purchase of FTS, FTS will only be bound to it if FTS has consented to such a deviation in writing. The acceptance of deliveries or services, as well as payments, does not mean that FTS has consented to any such deviation.

1.4 Changes or supplements to the offer to purchase must be confirmed by FTS in writing.

### 2 Delivery time, dispatch, packaging, passage of risk and partial delivery

2.1 Deliveries will be deemed to be made in good time if these are received at the agreed time and at the designated point of destination; and for systems that are to be collected provision at the agreed place of collection. In the case of delivery the contractor will pay for the costs of dispatch. The contractor will also pay for any additional costs incurred for accelerated transport in order to comply with delivery deadlines for both delivery and collection options.

2.2 FTS must be notified by the contractor without delay if a delivery or provision for collection is to be delayed. A minimum of two working days notice is required to ensure no courier costs are incurred.

2.3 If collection by FTS is agreed, the contractor must make the IT systems available at its location at the time/day pre-agreed with FTS in a single consignment on a euro-pallet(s) and on a loading bay for collection by FTS or a third party commissioned by FTS.

2.4 The IT systems must be packaged in transport-safe packaging by the contractor for either delivery or collection. The hardware must be provided with edge protectors and wrapped with plastic film. Smaller IT systems should be packed in appropriate cardboard boxes and secured with filling material. The contractor will pay for the costs for the packaging. Packaging guidelines are available from Fujitsu by request.

2.5. Packing slips or delivery notes with details of the contents of the shipment and the complete order reference must be enclosed with each shipment or collection. If deliveries are to be delivered directly

to a third party upon the request of FTS, it must be clearly stated on the delivery note that delivery is being made on behalf and for the account of FTS.

2.6 If delivery was agreed to either and FTS location or a nominated third party location the risk will pass with the handover (incoming goods) and FTS immediately acquires the right of disposal for the supplied IT systems.

2.7 If collection was agreed the risk will pass upon completion of the loading of the IT systems for transportation and FTS immediately acquires the right of disposal for the IT systems.

2.8 Partial deliveries or partial services require the prior consent of FTS.

2.9 Failure to accord to points 2.3 and 2.4 above that result in a failed collection which in turn results in charges or costs will be recharged to the contractor by way of a reduction to the net purchase payment.

### 3 Quality of the IT systems

3.1 In addition to the requirements in the purchase offer, the IT systems must :

- be complete and fully functional accepting normal wear and include the all user manuals, accessories and documentation.
- contain no prevention to testing, i.e. all passwords (e.g. BIOS and system passwords), codes or similar encryptions have been removed.
- have all the existing data and software on the memory media (e.g. hard disks, CD-ROMs, streamer tapes) fully deleted.
- be properly de-installed by the contractor with any keys attached to the respective IT system.

3.2 The contractor will guarantee to FTS that there are no third-party rights to the IT systems, that the sale of the products in no way conflicts with the rights of any third parties (e.g. patents, brands, designs, utility models, distribution restraints, copyrights or any other rights). The contractor also bears the sole responsibility for compliance with any applicable data protection regulations as well as any applicable data backup provisions. FTS is not responsible for whether the data has been deleted or data backup has been performed. The contractor will exempt FTS from all claims of any third parties.

### 4 Function test

4.1 After the IT systems have been delivered or collected, FTS will check the IT systems with regard to their quantity, functionality and completeness or have them checked by an appointed agent commissioned by FTS (hereinafter referred to as "function test"). This function test will take place on the premises of FTS or its agents. A prerequisite for the function test is that the contractor had made technical access to the IT systems possible in accordance with 3.1 b.

4.2 FTS will finalise the total purchase price and the individual purchase prices of the IT systems as per clause 5 below on the basis of

the function test and the agreements arising from and in conjunction with these terms.

4.3 After completion of the function tests on the IT systems FTS will send a test report to the contractor. The test report will also list the final total purchase price and the final individual purchase prices of the IT systems.

4.4 Within 10 work days after receipt of the test report from FTS the contractor is entitled to check the IT systems, which the test report declares to be flawed and/or incomplete, on the premises of FTS or the third party commissioned by FTS and, if any deviations to the statements of the test report are found, the contractor is entitled to object to the statements of the test report to FTS in writing. If the contractor does not object to the statements of the test report within this 10-day time limit, the deficiencies found and all further statements of the test report, including details of the final total purchase prices and the final individual purchase prices of the IT systems, will upon expiry of this time limit be regarded as accepted by the contractor.

4.5 FTS is not obliged to examine the IT systems at once. In this respect, § 377 of the German Civil Code (HGB) is regarded as null and void. Examination of the IT systems is solely done as part of the function test as per section 4 of these terms of purchase.

## 5 Purchase price

FTS will inform the contractor of the preliminary total purchase price for the IT systems in its offer to purchase. This preliminary total purchase price is only valid if all IT systems are of the quality and functionality agreed in the offer and they arrive or are available before the agreed deadline date of the offer. Any deviations may result in a reduction in the purchase price. FTS will with regard to a reduction in the purchase price also give due consideration to any disposal costs that are incurred and, if necessary, any reworking if the IT systems are not in the expected condition. Should these costs exceed the preliminary purchase price, FTS will then invoice the contractor for the difference.

The final total purchase price and the final individual purchase prices of the IT systems are regarded as agreed upon acceptance of the test report. If the contractor objects to the final total purchase price and the final individual purchase prices for the IT systems as determined in the test report, the parties are to reach an agreement regarding the final total purchase price and the final individual purchase prices for the IT systems. The starting point for the definition of any factors that reduce the purchase prices, such as costs for disposal and the amount of the reduction if the IT systems are not of the agreed condition, are any reduction in the market value and any costs incurred to restore the IT systems to the agreed condition. If the contractor does not accept the final total and individual purchase prices as determined by FTS and the parties cannot reach an agreement regarding a final purchase price, FTS can pay the contractor the maximum amount as a purchase price that FTS achieves as a resale price for the IT systems, less any costs incurred by FTS during resale, (e.g. transportation costs), or the contractor can collect the IT systems at their own cost from either FTS or its appointed agent.

## 6 Invoices and Payments

6.1 Invoices. The order references and item numbers of every single item must be specified in the invoices. If these details are not stated on the relevant invoice, such invoices need not be paid. Duplicates of invoices must be identified as duplicates.

6.2 Payments must be made, unless otherwise agreed, within 30 days net after receipt of invoice. The contractor will only issue an appropriate invoice after the final total purchase price is fixed in accordance with section 5.

6.3 Prepayments will not be made.

## 7 Export control

7.1 To the extent that export of the products and/or the related documents - for example, due to their nature or their intended purpose of application or use - are subject to approval under German or foreign law, or if the products are to be exported, the contractor will obtain all required approvals or licenses, if necessary, at no charge and will assist FTS in doing this to the best of its abilities.

7.2 The contractor will provide the detailed information specified below and confirm this in writing if necessary and upon the request of FTS:

- export classification (export list number, AL) in accordance with European and /or German export control laws
- export classification (Export Control Classification Number, ECCN) in accordance with US export control laws
- License Exception in accordance with US law
- customs tariff number/statistical merchandise number of the product
- country of origin of the products
- gross and net weight of the products, as well as their dimensions.

7.3 The contractor will submit the certificates of origin and preference declarations with regard to the products to FTS without delay and at no charge, upon the request of FTS.

## 8 Confidentiality

The contractor shall not make any information obtained from FTS accessible to third parties, to the extent that such information is not publicly known, or has been made known to the contractor otherwise in a lawful manner.

## 9 Assignment of claim

Any assignment of a claim is only permitted with the written consent of FTS.

## 10 Ethical standards

The contractor is obliged to comply with the applicable laws and legal requirements. In particular, the contractor will not engage, actively or passively, neither directly nor indirectly, in corruption in all forms, including extortion and bribery, in any violation of basic human rights of employees or any child labor. Moreover, the contractor will take responsibility for the health and safety of its employees, the contractor will act in accordance with the applicable environmental laws and will use best efforts to promote these ethical standards among its suppliers. Any breach of the obligations stipulated in these ethical standards constitutes a material breach of contract by the contractor.

### 11 Declaration of security

The contractor is obliged to store and load/unload those goods as commissioned by FTS for storage, transport, supply or handover in (i) a secured company building and at secured depots and (ii) to protect such locations and goods from non-authorized access during storage, loading/unloading and transportation periods. Furthermore, the contractor is obliged to ensure that the staff used in the production, storage, loading/unloading and transporting of such goods are trustworthy and adequately checked prior to employment.

### 12 Court of jurisdiction, applicable law

12.1 The place of jurisdiction for all disputes resulting from or in conjunction with this agreement is Munich.  
12.2 German substantive law will apply; the conflict of law provisions will not apply. The "UN Convention on Contracts for the International Sale of Goods" dated April 11, 1980 (CISG) is to be excluded.

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