

## ABB d.o.o. COMPANY'S PURCHASE CONDITIONS

The Purchase Conditions are without exception valid for all orders made by ABB d.o.o. Company (hereinafter: ABB). Valid regulations apply for all other issues that are not determined with the Purchase Conditions. All sale or delivery conditions by ABB Company's Contracting Party (contractor, deliverer or vendor etc.; hereinafter: Contractor) that are in discrepancy with these Conditions are valid only with particular written agreement issued by ABB. If the Contractor accepts the order and starts to carry it out it is assumed that he is familiar with these Purchase Conditions and agrees with them. Any discrepancies from the above mentioned conditions are valid only in case of a particular written authorisation granted by ABB.

### 1. ABB Company's demand and the Contractor's offer

1.1 The Contractor should precisely adjust the quantity, quality and type of the product as it is determined in our demand. Any discrepancy from our demands should be specifically stated in the offer. If the demand states approximate quantities (such as approx., about...) then the quantity changes up or down are acceptable only until these changes are relatively small regarding the size of the order. The offers, the cost estimations, the plans, the certificates of technical equipment testing and other documents should be delivered by the Contractor free of charge or at their own expense.

### 2. Orders

2.1 Regardless the submitted offers, the component part of any contract are also all written orders including those sent by fax or e-mail. The Purchase Conditions is a component part of any contract as well, regardless the submitted offers. The orders established verbally or on the telephone and such complements, changes or any discrepancies submitted verbally or on the telephone are binding for the ABB Company only in case a written confirmation is sent by mail, fax or email. For the order date is valid the date when the order form is sent and in case of verbal or telephone orders the order date is the date when we send our written agreement.

### 3. Order Confirmation

3.1 Our order should be immediately confirmed in written form. If ABB does not receive the written confirmation in ten days from the date of order it is considered that the contract is concluded under the conditions stated in our order; the time for mail delivery is considered part of the above determined deadline. Discrepancies from our order should be specifically stated in written form or by mail or fax. All provisions about conditionless reception of goods are void.

3.2 If our order does not state the price or any other condition (i.e. the time of delivery) then it is expected from the Contractor that he determines these conditions and attaches them to the order confirmation form. If the Contractor does not do that the contract is not concluded. In case we do not agree with the Contractor's conditions and prices we have the right to cancel or withdraw the order.

3.3 After concluding the contract the Contractor ensures to carry out the order professionally and as an expert on the field, with diligence of a good manager and following the instructions of ABB, the rules of profession and business and in accordance with the regulations.

### 4. Time of delivery

4.1 Time of delivery that is stated in the offer is the delivery time for the goods and/or deadline for the service to be carried out on the address stated for the delivery and/or the performance of the service.

4.2 Early delivery of goods or performance of the service is only allowed with our permission. In no case ABB should suffer any damages or loss due to early delivery or performance of the service; this is particularly valid for the payment deadline (Article 14) and risk transfer (Article 8) which stay the same.

4.3 In case the delivery deadline is postponed the Contractor is obliged to keep the goods in storage for at least three months at their own risk and expense. After a previous appointment we keep the right to visit the Contractor's premises and establish the state of the ordered goods or work and/or to take over the goods from the Contractor's factory.

### 5. Delivery, shipment, acceptance and insurance

5.1 The delivery (performance of the service) and shipment are always free of charge and performed at the expense of the contractor all the way to the venue of delivery determined by ABB ("DDP" - INCOTERMS 2000). We do not accept cash on delivery. The consignment of goods should be equipped with the report on delivery form which specifies all details of the delivery. In case the delivery address is not on the business premises of ABB and the customer is the third party (direct delivery) we hold the right to send them the delivery documentation. In case of sending when the price is determined ex-factory we will also give the instructions which should be followed by the contractor; if not, the Contractor should propose the delivery instructions and submit them to us for confirmation.

5.2 The delivered goods should be handed to our authorised workers at the delivery address. Quantity acceptance of goods at the delivery address takes place on the spot at the delivery; acceptance of goods regarding the quality and type is considered concluded only after the goods have been successfully used and the handover record has been signed.

5.3 The Contractor should ensure delivery at their own expenses and insurance for loss or any other damage. Goods with special delivery demands (i.e. chemicals) should be regularly distributed to classes, packed and labelled according to the legislation and other regulations for this area.

5.4 In the case of delivery of technical appliance and equipment the Contractor is obliged at their own expense to train and educate our technical support staff. In the case of delivery of equipment which we install on our own or by the third party, the Contractor should attach a plan or instructions for installation (together with all links, a draft of the base if necessary, etc.).

5.5 All consignments should include all information sheets, instalment and processing instructions and indications of any specialities of the material (especially synthetic) and the goods. Similarly goes with the consignments from abroad: they should be labelled with all instructions in Slovenian language: work instructions and handbooks should be in Slovenian and in English and both issues in duplicates.

### 6. Packaging, discards, hazardous waste

6.1 The goods should be regularly packed. The Contractor should in any case foresee all risks and the price of packaging and possible discharge of waste and/or disposal and/or discard in accordance with the regulations.

### 7. Non-compliance with requirements, rescission of contract and penalty

7.1 In the case of non-compliance with the requirements regarding the confirmation of orders (Article 3), delivery of goods (and/or performing the service), and/or in the case of non-compliance of the delivered goods and/or the performed service with the conditions in the contract, we withhold the right to the complete or partial rescission of contract without effecting any of our other rights. We can do this immediately or after an additional due date for fulfilment of the requirements. Doing so the Contractor has no right to object and no right to persist in fulfilling the present contract, similarly the Contractor cannot brought any claim against ABB. ABB keeps the same rights in the case that the Contractor becomes incompetent of fulfilling the requirements; this comprises also the beginning of the liquidation process, bankruptcy, receivership, and/or incompetence of naming appropriate authorised signatories for periods longer than one week.

7.2 In the case of delay ABB holds the right (besides the fulfilment of the contract) to a penalty in the amount of 1% of the whole value of the order for each week of delay (or proportionally less if the delay lasts less than a week); for the delay in delivering the documents 0.5% of the whole value of the order for each week of delay (or proportionally less if the delay lasts less than a week), all together the maximum of 5% of the complete value of the order. In the case of rescission of contract due to non-compliance with the requirements ABB has the right to demand a penalty up to 5% of the complete value of the order in any case. The sum of penalties is limited to 5% of the complete value of the order.

7.3 ABB has the right to demand penalty due to a delay or rescission of contract also in the case that we request and receive delayed fulfilment of contract. A penalty due to a delay or rescission we can demand at any time, also after the accepting of the delayed fulfilment. ABB is entitled to a penalty also in the case that the guilt for a delay and non-compliance with the requirements and consequently the rescission is not Contractor's.

7.4 Only in the case that the cause of the non-compliance with the requirements or delay is higher force, then the contractor is exempt from paying penalties and indemnification but only in the case that we are immediately informed of such circumstances. Strikes, lack of material, customs administration procedures and facts that the material is of sub-standard quality do not qualify as higher force.

### 8. Risk transfer

8.1 The risk of incidental damaging and/or destruction is transferred to ABB only after the delivery of goods to our authorised workers (Article 5) or performance of the service and only the workers check and accept the delivery of goods or performance of the service in the place of delivery and only after the correctness of the goods and performance have been established and only after the contractor correctly performs all additional commitments., such as documentation delivery, all certificates regarding inspectorial monitoring, descriptive lists, instructions etc.

## **9. Guarantee for faults and guarantee for faultless functioning**

9.1 The Contractor's or producer's goods and service should be in accordance with the contractual regulations, including the statements and descriptions of the goods that the Contractor or the producer submits regarding the goods (services). The Contractor's or producer's goods and service should be in accordance with other regulations, such as safety at work, environmental protection, safety measures and should comply with scientific and technical regulations; in regard to that it is vital to use and perfect the latest, improved versions.

9.2 The quality of goods and services should reach the standards that maintain the ISO 9011 Standard. It is extremely important to maintain the regulations and demands that refer to delivery of hazardous materials and discards as well as taking care of proper storage and instruction for use. In this sense the Contractor has to handle with due care and see to a proper and sufficient informing about the course of action.

9.3 The Contractor guarantees merchantable quality and fault of goods and the services. At the same time the Contractor guarantees no faults on the goods and at the service during the guarantee period. The guarantee comprises the period of 2 years unless the regulations determine a longer period; with additional agreement it can also be prolonged. In the case of faulty goods the guarantee period starts only after the faults are dealt with, the latest date of commencement of guarantee period is three years after the transfer of risk (Article 8).

9.4 The Contractor can and should in no case refer to or use the fact that the feedback or report on faults was submitted, sent or delivered too late. No payment made by ABB based on a contract can be assumed as a withdrawal from any right that belongs to ABB from the guarantee. In the case of faults or any other malfunction ABB is entitled to a full refund of all expenses and damages, including the costs of written admonition and lawyer's fee. If there is a reasonable doubt that the complete consignment or service is inappropriate the complete sum of the costs for such goods or service shall be payable.

9.5 We withhold the right that in case of receiving faulty goods we choose the provision to act upon (or any combination of provisions as well):

- a) price reduction,
- b) fault elimination at the expense of the Contractor,
- c) replacement of goods or materials at the expense of the Contractor,
- d) complete or partial rescission from the contract.

It is our right as well to take care of supplement goods instead and without an additional deadline, we can take care of the fault or faulty performed service by means of finding a different source / from a different Contractor in the all cases stated above, we inform the Contractor about our provisions in written and levy the Contractor all expenses that derive from the substitution, eliminating the fault or improving the service. The Contractor should immediately substitute the faulty goods with merchantable quality or improve it according the standards and demands stated in the contract. If such substitution or improvement is carried out the guarantee period commences anew. If there is a due date necessary for elimination of the fault, a sufficient period of 14 days is accepted.

9.6 The Contractor is entitled to the payment only in the case that the goods or services are in complete accordance with the contract regulations. In the case that too big or too little amount of goods has been delivered or in case of any discrepancies from the quality, the contractor shall refund us the expenses that derive from additional control, packaging, returning the consignment or storage. Returning of the consignment or something that has not been ordered – sufficient material will be carried out at the expenses and responsibility of the Contractor.

9.7 If ABB due to the faults or insufficiency of goods or services does any of the service to its clients on its own, ABB in this case also retains all legal means against the Contractor regarding the guarantee. Carrying out the above listed services the company is not obliged to consult with the Contractor regarding their performance or nature of work and is not obliged to consider any instructions.

## **10. Damages and liability for the products**

10.1 In any case ABB is entitled to unlimited claims regarding the refund of the damages and refund of expenses as well as to appeal against the Contractor in court. None of the provisions from these Conditions is possible to interpret as ABB's denunciation from the stated rights or undertaking a later such denunciation.

10.2 In case that the delivered goods were not in accordance to the valid regulations and are flawed or faulty and in the case that these cause damages claim against ABB or a court appeal against ABB, then the contractor shall refund us all expenses and damages connected, and help ABB in all legal matters at their own expenses, protect ABB from any sort of additional costs, damages and/or legal procedures.

10.3 The Contractor shall deliver complete and comprehensive instructions for use, keep all necessary documentation and conscientiously monitor their own goods. If agreed, they shall also recall incomplete goods at their own expenses, immediately deliver production records and provide all necessary help, as well as determine a producer and/or importer within 14 days.

## **11. Insurance**

11.1 If not agreed differently the Contractor holds the liability for the subscription of the concerned insurance alone and at their own expenses.

11.2 At the same time the Contractor is obliged to take out the business responsibility insurance, including goods liability and in cases of planning services also insurance for liability of planning with the below stated minimal criteria:

- a) insurance sum for injury to persons and damage to property and the economic losses consequently, twice the value of the order, however at least 2 million EUR per individual claim or damage case. In individual cases the both parties can agree for a higher insurance indemnity;
- b) insurance indemnity for pure economic loss 0,7 million EUR per individual damage case;
- c) validity throughout the world, i.e. in all countries of the world (with the exception of the USA and Canada).

11.3 Concluding contracts of the abovementioned or other insurances do not exclude other contractual liabilities and responsibilities of the Contractor, also in the case that ABB does not counter the insurance policies. The Contractor shall submit these policies to ABB upon its request.

11.4 Insurance policies concluded by the Contractor shall contain restriction of transferability clause for the benefit of ABB.

## **12. Fire protection, safety at work and environmental protection**

12.1 If the Contractor carries out its works in one of the factories or business premises of ABB or ABB Group during the period of valid contract he is obliged to demand explanations regarding fire protection, safety at work and environmental protection and act and behave accordingly himself and his employees or subcontractors. The Contractor is liable for any damage that occurs due to infringement of this provision.

## **13. Intellectual property rights**

13.1 The agreed price includes the payment for acquisition of all necessary rights to the intellectual property, especially patents necessary for the use and sale of the goods and services. The Contractor is obliged to acquire all necessary rights to the intellectual property from the third parties and transfer them to ABB. It is assumed that all patents and other intellectual property rights which are necessary for the use and sale of goods and services are transferred to ABB with the signed contract. ABB holds the right to request the Contractor to transfer to ABB all the rights of intellectual property (including the copyrights and patents) without compensation which he acquired in the period of carrying out the contract. In case that a damage claim or a court appeal regarding the rights to intellectual property is started against ABB the Contractor is obliged to refund us all expenses and damages connected to that and help us in legal procedures at their own expenses as well as protect us from any additional expenses, damages and/or legal procedures.

## **14. Pricing and conditions of payment**

14.1 All prices are fixed and do not include VAT. Considering Article 5 of these Conditions it is considered that the prices are valid for goods delivered to the pre-addressed receiver "DDP" - INCOTERMS 2000.

14.2 Payment deadline is 90 days from its due date. If the payment is made in the first 30 days from due date we are entitled to a 3% discount. In accordance to our rights determined in Article 4 of these Conditions the due date is determined from the day of receiving the invoice onwards and in accordance with the rest of our conditions of payment (especially Article 9.6), however, in case of the transfer of risk takes place at a later date (Article 8) the due date for payment starts on the date of risk transfer.

14.3 Invoicing that does not comply to the above conditions cannot qualify as a start for the due date of payment. We are entitled to choose our own means of payment: credit transfer or post savings transfer, telebanking, aligned drafts without levying the costs to the Contractor or by cheque.

14.4 Payment is considered due if the transfers, drafts or cheques are sent to the bank or post within the due date of payment. Similarly goes for the case of telebanking, where the form needs to be submitted to the bank within the due date.

## 15. Invoicing

15.1 The invoice needs to be sent to our address in one copy (appropriate for scanning) and needs to include all orders and delivery dates. If there is no order number the invoice needs to include the expense unit and the name of department with the title of the head of the project or the number of the order, as well as the title of the head of project's department. Invoices need to be composed in the same way as the order. In case of servicing work, instalments or composing work there needs to be a time-line of the works attached and previously confirmed by ABB.

15.2 If our consignment includes a request for delivery of a bank guarantee or mother company guarantee, then all these confirmations need to be sent within the period stated in the consignment or at the latest together with the invoice.

15.3 The invoice needs to be issued according to the regulations, which is especially valid for VAT.

15.4 Invoices that are not written according to our conditions are considered non-submitted and can be rejected. In this case the agreed due date of payment stops and restarts when a new, corrected invoice is submitted.

## 16. Transfer of contract, delivery and set-off

16.1 The performance of the order cannot be transferred completely or partly to the third party without a written agreement of ABB.

16.2 ABB holds the right to request from the Contractor its current and future claims as well as the claims from common investments that are both part of, as well as all similar claims within the ABB Group.

## 17. Professional secrecy

17.1 Drafts, maps, tool, aids, samples, models etc. That have been prepared or financed for the performance of the order all remain or become the property of ABB (together with all rights to intellectual property). All such things shall be immediately returned to ABB or handed after delivery (or concluded service) or rescission of contract.

17.2 The Contractor is obliged to keep all information regarding the contract and other business secrets (maps, drafts, notes, our »know-how« which is not public, etc.) in strict confidence and shall also demand same from his employees and subcontractors and the companies where he carries out the orders.

17.3 The Contractor shall especially not share confident information to the third party or even publicize the information or use it for commercial purposes. The Contractor is allowed to photocopy the notes or documents only with a written agreement by ABB. The Contractor can publish reports or inform public only with a written agreement by ABB. In case of infringement of secrecy or professional secrecy ABB is entitled to break the contract completely or partly and demand the refund for all the damage that occurred.

## 18. Delivery from Member States into the Non-member States

18.1 The contractor needs to ensure legal, proper, legally effective certificates on the transfers of goods that are necessary for duty-free shipment. The Contractor is liable for all expenses and damages in case that this Article's provision is not fulfilled.

19. Discharging of old electrical and electronic appliances

19.1 The Contractor is liable to ensure the discharge of old electrical and electronic appliances and their storage at their own expenses and according to the regulations.

## 20. Employment and safety

20.1 The Contractor is obliged to follow the regulations that deal with employment of domestic and foreign workers. We are entitled to monitor foreign workers that are employed by the Contractor at any time and with no previous appointment made. On our request the Contractor is obliged to immediately make redundant all those workers whose work is not in accordance to regulations of employment and foreign workers (especially Employment and Work of Aliens Act) at their own expenses.

## 21. Quality and Safety Standard

21.1 The Contractor's fulfilment of liabilities shall be in accordance with the technological state at the time of carrying out the contract. The technological state is the status of development of progressive technological procedures, means and methods of control that is based on important scientific findings and whose ability of work is verified and proved. When determining the technological state the comparable procedures, means and methods of control need to be taken into account.

21.2 The Contractor is obliged to ensure that his employees are properly experienced and qualified and that they have been properly instructed about the safety measures before they begun with the work, as is the common practice and in compliance with the regulations. Work material supplied by the Contractor shall suffice to all regulations and needs to be available for the adequately educated staff for verification in certain time intervals. The prescribed protection appliances should not be eliminated during the work.

21.3 If the Contractor carries out also other services on construction sites ABB needs to be notified in advance and in due time regarding the safety measures. The Contractor needs to ensure that their workers always have the adequate safety equipment at hand on the construction site and that they use the safety equipment during the work. The Contractor needs to consult with ABB whether the works are carried out without disturbing and according to the contractual regulations or if the procedure of works has changed in certain cases. The Contractor needs to insure that there are no risks for anybody present at the construction site.

21.4 In case that the above mentioned preconditions are not fulfilled due to any kind of reason we hold the right to act accordingly, especially against those who break the regulation at the construction site and ask them to be removed from the site. Failure to take these measures does not mean that ABB agrees or accepts non-compliance with the regulations in preconditions.

21.5 In case there was a compensation claim brought against ABB or a legal procedure initiated regarding the abovementioned circumstances, the Contractor is liable to refund us all expenses and damages caused, help us in legal procedures at their own expenses and protect us at their own expenses before any additional costs, damages and/or legal procedures.

## 22. Miscellaneous

22.1 All business correspondence needs to be addressed or directed only to our purchase department or to the responsible employee.

22.2 The documentation sent to us, such as bill of lading, labels for rail transfer, parcels for rail transfer, reception form for train parcels, dispatch note, record of packaging, invoices, notifications on changes and all other correspondence needs to be equipped with the following info: order number, date of consignment, position and description of goods as well as the name of the responsible employee or title of department in charge of the matter. In case the delivery comes from abroad there has to be also a customs record or the number of customs tariff of the goods.

22.3 In case of delivery from Member Countries of the EU there needs to be also an identification number for VAT according to the regulations. The Contractor is liable for any harmful consequences which might derive from non-compliance of this provision.

## 23. Code of Conduct

23.1 The contractor needs to follow the Code of Conduct of ABB Company and ensure that also his employees and subcontractors fulfil the liabilities deriving from this Code. The Code is published on: [www.abb.si](http://www.abb.si).

## 24. The place of carrying out the service, legal competence and valid legislation

24.1 The place of delivery and performing the service is the same as delivery address – determined by ABB or a place where the service is supposed to be carried out.

24.2 In case of legal disputes deriving from these Conditions or the contract we refer to the current Slovenian legislation and legal order. The legal court of Justice in Ljubljana is competent for all disputes and we hold the right to initiate a suit to any other regional court according to the valid legislation of the state of the Contractor's headquarters or place of residence

## 25. Clause on preservation of contract

25.1 In the case that a specific provision from these Conditions or from the contract is legally void this does not have any influence on validity of other provisions from these Conditions or the contract. Contracting parties are liable to substitute the void provision with a valid one that mostly suits the purpose from these conditions.