

# Our Terms of Purchase

fruitcore robotics GmbH, Macairestraße 3, 78467 Konstanz,  
Germany

## I. General information

1. Our terms of purchase apply in exclusivity, unless otherwise specified in our orders. Conflicting terms and conditions of the supplier are not binding for us even if we do not expressly contradict them or accept delivery without reservation.
2. Should individual provisions of these terms be or become invalid, this shall not affect the validity of the remaining provisions.

## II. Order and order confirmation

1. Our orders are only binding if we place them in writing or via electronic means. If we have not received written order confirmation within two weeks of the order date, we reserve the right to cancel the order without obligation on our part.
2. In the event of an order with a value of less than 100 Euros net, the supplier invoice shall be regarded as confirmation of the order, provided that it matches said order.
3. Supplier cost estimates and product presentations are binding and not to be remunerated, unless expressly agreed otherwise. The supplier must clearly and explicitly notify us if their order confirmation deviates from our order in any way.
4. We may also request changes to the subject matter of the contract after the contract has been concluded, insofar as this is reasonable for the supplier. Due consideration should be paid to the implications of changing the contract in this way on both sides, with particular regard to any increases or decreases in costs and delivery date postponement.
5. Orders shall become binding unless the supplier raises written objection within five days or sends us differing order confirmation.

## III. Order number, supplier number, item number

Order confirmations, invoices, delivery notes and other documents, including in electronic transactions, must state our complete order number, purchasing group, supplier number and material and drawing numbers for each service and part purchased. If this information is missing, we reserve the right to reject deliveries and invoices.

#### **IV. Description of services**

1. The supplier shall manufacture the product covered by the contract or provide the service agreed upon in accordance with the applicable technical documents and/or other documentation.
2. The supplier shall be fully responsible for the manufacture of tools, devices and other equipment where these are required to manufacture the product covered by the contract, even if they have them manufactured by third parties. The supplier shall store and use the tools for us and according to our instructions. The tools shall become our property once they have been paid for in full. The supplier shall prepare the full tool documentation and provide this to us in a form to be agreed upon.
3. The documents belonging to the order (sketches, drawings, templates, models, etc.) shall be binding for the supplier, but they must professionally examine them for any discrepancies immediately and inform us in writing of any discovered or suspected errors without delay.
4. Any documents (sketches, drawings, templates, models, etc.) and information we supply or pay for shall remain our property. They may not be given or made available to third parties and may only be used for deliveries to third parties with our prior written consent. Subcontractors should be placed under a corresponding obligation.

#### **V. Compliance with laws and standards**

1. By accepting the order, the supplier undertakes to comply with all relevant legal regulations applicable in the country of manufacture and distribution. This also includes all safety and environmental protection regulations, including those regarding the handling of hazardous substances, electrics and electromagnetism. The supplier must inform us immediately if there is any doubt regarding the conformity of their products.
2. If the supplier has the product covered by the contract, or parts thereof, manufactured by third parties, the provisions laid down in (1) shall apply in the same way. The supplier shall be responsible to us for making sure that their subcontractors, and other third parties they use to fulfil their contractual obligations, comply with the aforementioned provisions.
3. We expect our suppliers to meet their corporate and social responsibility. The supplier promises to comply with the Responsible Business Alliance (RBA) Code of Conduct, which is available for download and can be viewed on the RBA website – <http://www.responsiblebusiness.org/>.

4. Compliance with the aforementioned provisions, with particular regard to the RBA Code of Conduct, constitutes an essential contractual obligation for the supplier. According to case law, an essential contractual obligation is one which needs to be fulfilled to make it at all possible for the contract to be properly executed and which the contracting party may regularly rely on being fulfilled.
5. In the event of non-compliance with the aforesaid provisions, the supplier shall be obliged to compensate us for the costs, damages and other disadvantages incurred as a result. Failure to comply with the aforesaid provisions shall entitle us to give extraordinary notice of contract termination, applying Section 314 of the German Civil Code (BGB) accordingly.

## **VI. Packaging**

The supplier shall provide the necessary packaging materials on the basis of the packaging instructions transmitted to them, unless otherwise agreed.

## **VII. Delivery, transfer of risk, place of acceptance**

1. Delivery shall be made according to the method of shipment indicated in the order.
2. Risk shall be transferred after the goods have been accepted at the agreed place of performance. If differing INCOTERMS have been agreed on for the deliveries, the risk shall be borne in accordance with the provisions of this clause.
3. Unless otherwise stated in the orders, deliveries shall be made to us carriage paid. The shipment should then be sent to the place of acceptance we have indicated (usually the goods receipt area at the plant designated in our order).
4. Each delivery is to be accompanied by a delivery note or packaging slip, which must meet the conditions indicated in section 3. If these documents are not present, we reserve the right to reject the delivery if it is not reasonable for us to accept it. If defective goods or rejected deliveries are returned, return transport shall take place at the expense and risk of the supplier. The value of the return shipment shall be charged to the supplier. We are not in default of acceptance as a result.

## **VIII. Prices, transport insurance and payment terms**

1. Prices are to be understood as fixed prices including delivery to our place of acceptance, packaging and other ancillary costs. This does not apply if explicitly agreed otherwise elsewhere, or if we have explicitly agreed to a sliding price clause or that prices are subject to change.
2. The supplier must insure the goods against damage during transportation.
3. Invoices should be sent separately from the deliverable immediately after delivery and duplicate invoices should be submitted separately for each order.
4. Unless otherwise agreed, we shall make payment after receipt of the goods and invoice, with a 3% discount if made within 14 days and a 2% discount if made within 24 days, or net within 30 days. Payment shall be made subject to invoice verification and full delivery of the goods or full provision of the service. Our payment does not confirm that the supplier has fulfilled their contractual obligations.
5. The supplier shall be obliged to reimburse us for any overpayments, whereby they cannot claim that limitation periods or disenrichment apply.

## **IX. Delivery date and delay**

1. All delivery dates agreed upon or specified by us pursuant to Section 315 of the German Civil Code are binding. Early deliveries are only permitted with our express prior consent. We shall be entitled to return goods delivered too early at the supplier's expense. The supplier should immediately inform us of any delays in delivery in writing, stating the reasons and duration. The supplier has an obligation to immediately inform us if the delivery schedule is threatened to be disrupted and to make suggestions on how to remedy this situation.
2. In order to avoid any imminent delivery delays, we shall be entitled to contact the supplier's subcontractor, should this be pertinent.
3. The supplier may only blame the absence of the necessary documents, data, equipment and the like to be supplied by us if they have issued a timely written warning in this regard and have not received them within a reasonable period of time.
4. If the delivery dates agreed upon are not observed, we may demand a contractual penalty of 0.5% for each full week of delay, but amounting to no more than 10% of the order value, unless the supplier is not responsible for the delay. If the supplier's subcontractors default, this falls within the supplier's sphere of risk. We reserve the right to impose the contractual penalty by deducting it from the fee owed when payment is next due.

Our legal entitlements due to delayed delivery remain unaffected. The contractual penalty incurred shall be set off against a claim for damages due to breach of contract.

5. Any additional costs for the expedited transport required to meet delivery deadlines shall be borne by the supplier, if this is necessary to avoid greater damages caused by delay. The supplier should record the additional costs and inform us thereof in an orderly manner by 31 January for the preceding calendar year.
6. The supplier may not claim that delivery is subject to timely supply from their subcontractors. We hereby expressly reject any corresponding clause in the supplier's terms and conditions of sale.
7. Force majeure, industrial action, disruptions in operations without fault, official measures and other unavoidable events shall entitle us – without prejudice to our other rights – to withdraw from the contract in whole or in part, insofar as these disruptions are not insignificant in duration and result in a significant decrease in our demand or the service is no longer economically reasonable for us.

## **X. Quality and production and product approval procedures**

1. The supplier is obliged to ensure the quality of the materials and preliminary products required to manufacture the product covered by the contract by implementing suitable measures in accordance with the QM standard ISO/TS 16949 or comparable QM regulations (QS 9000, VDA 6.1).
2. The supplier shall manufacture the products covered by the contract and to be delivered to us in accordance with the QM standards referred to in (1) and shall confirm the acknowledgement thereof to us in writing. They shall be responsible for the quality of the goods they deliver and/or manufacture without exception, even if we offer or provide them with support.
3. Any changes to the subject matter of the contract, the materials used and the production and testing procedures may only be made with our prior written consent.
4. If we so require, the supplier must provide initial samples of series tools with all the necessary documents as part of the product approval procedure in accordance with the QM standards specified in (1).
5. If more than two samples are required for reasons for which the supplier is responsible, we reserve the right to withdraw from the contract.
6. On-site audits of the supplier's quality management system can be conducted by us and/or our customers.

7. Moreover, the supplier must make sure that their deliveries and services comply with the latest developments in science and technology, as well as safety regulations and the agreed technical data. For materials that have to be specially packaged, transported, stored, used or disposed of due to laws, regulations or other provisions, or due to their composition or effect on the environment, the contractor shall provide a duly completed safety data sheet according to DIN 52900 and an applicable accident information sheet (transport) with the offer. In the event of changes to the materials or the legal situation, the contractor shall provide us with the updated data and information sheets without having to be requested to do so.

## **XI. Provided equipment**

1. The supplier shall be liable for the loss, misuse or damage of provided items caused by reasons for which they are responsible. Insofar as provided parts or materials are not handled in accordance with the contract, the supplier shall, without prejudice to any other claims, reimburse us, not only for the costs of the provided parts and the procurement thereof, but also for the value of the product created under the contract, unless they can prove that we have only suffered minor damage.
2. We reserve an extended retention of title to provided parts and manufacturing equipment, e.g. tools, molds and other capital goods, as well as services. This also includes manufacturing equipment and services that the supplier procures themselves for the manufacture of the product covered by the contract or the service, but that are paid for by us. Products and services remain our property at all stages of treatment and processing.
3. If other items owned by third parties are used for processing, we shall be entitled to co-ownership of the newly manufactured item in the ratio of the value of the equipment we provided to the value of all items used in the production process as well as the expenses incurred by the supplier.
4. Manufacturing equipment we own is intended exclusively for our use and must be stored by the supplier and kept in working condition at all times, being insured against damage due to fire, water and theft at their own expense at replacement value. The items are to be marked as our property.
5. We shall be entitled, at any time, to demand that individual or all provided parts or manufacturing equipment be returned. If we order items to be returned, the supplier shall be obliged to carry this out immediately and upon first request. The supplier shall be entitled to compensation for any associated costs required for transport, freight and packaging.

## **XII. Warranty and notification of defects**

1. The supplier shall be liable in accordance with legal provisions, unless otherwise agreed below. They shall diligently and properly fulfil their contractual obligations, with particular regard to compliance with the defined specifications and other implementing provisions in accordance with the latest developments in science and technology, as well as ensure the quality and suitability of the delivery with regard to material, design and execution and the documents belonging to the delivery (operating instructions, drawings, plans, etc.). The defined specifications are considered agreed characteristics of the delivery or service.
2. The official approval of documents or our delivery or approval of drawings, calculations and other technical documents does not limit the supplier's sole responsibility for the freedom from defects in the contractual items. The same applies to our orders, proposals and recommendations, unless the supplier raises written objection thereto in good time.
3. Notices of defects shall be deemed to have been made on time if defects recognizable externally are reported within 10 working days of receipt of the goods, and hidden defects within 10 working days after we have discovered them or our customers have notified us of them. Defects that cannot be detected by random sampling are considered hidden defects.
4. If defects fail to be rectified or there is no replacement delivery, in addition to legal entitlements, after a reasonable time period set by us for avoiding acute dangers or major damage has passed, we shall also have the right to remedy the defect ourselves, at the expense of the supplier, or to commission third parties with this task.
5. Returns of rejected goods are generally billed freight collect with the invoiced value of the goods being backcharged.
6. Claims for material defects shall lapse 36 months from when delivery was made to us, unless the item has been used for a building structure in line with how it is customarily used and has caused this structure to be defective.

For parts of the delivery replaced due to claims based on defects, the limitation period begins anew at the time at which the supplier has fulfilled our claims for subsequent delivery in full.

7. The supplier is obliged to reimburse us for all costs arising in connection with a material defect, including those that our customers legitimately invoice to us, within the scope and to the extent of their legal or contractual liability. These costs include, in particular, costs incurred for troubleshooting, removing the defective part and installing the replacement part, as well as expert fees and transport and sorting costs. In addition, the supplier shall also pay compensation for damages due to business interruptions at our premises or



those of our customers, lost profits and other damages if the damage was caused by a defect in the subject matter of the contract object for which the supplier is responsible.

8. In the event of defects of title, the supplier shall indemnify us against any existing claims made by third parties. This shall not apply if the supplier is not at fault. A limitation period of 36 months shall also apply to defects of title.
9. In relation to our suppliers, the provisions laid down in Sections 445a and 478 of the German Civil Code shall also apply if the components procured by the supplier cause a defect in the intermediate or end product we have produced.

### **XIII. Confidentiality**

The contracting parties undertake to treat as a trade secret all undisclosed commercial and technical details which become known to them through the business relationship, regardless of how they were transmitted. Drawings, models, templates, tools and manufacturing equipment provided to the supplier or produced thereby according to our specifications are to be kept secret and may only be made available to third parties with prior written approval. The supplier may only advertise their business relationship with us with our express prior consent.

### **XIV. Series and spare parts supply**

1. The product covered by the contract is further processed by fruitcore robotics GmbH and supplied to customers and manufacturers in various industries with the products of fruitcore robotics GmbH. As an essential basis for collaboration, the supplier guarantees to supply fruitcore robotics GmbH with the products covered by the contract in line with demand for the duration of the project or series of the relevant fruitcore robot (guaranteed supply period). The products covered by the contract must be manufactured to maintain consistent levels of quality over their entire service life in line with the original specifications.
2. The supplier undertakes to supply fruitcore robotics GmbH with spare parts and replacement products during the term of the contract and up to a period of 10 years after deliveries have ended. The price for the product last agreed upon between fruitcore robotics GmbH and the supplier for series supply shall continue to apply for a period of 3 years after series production has ceased. For the period thereafter, the price for the product shall be separately agreed upon between fruitcore robotics GmbH and the supplier.



## **XV. Property rights of third parties**

1. The supplier is liable for ensuring that no domestic or foreign rights of third parties, with particular regard to property rights such as patents, trademarks, copyrights or utility models, are violated in connection with the delivery and use of the product covered by the contract. This shall not apply if the supplier is not at fault.
2. Insofar as the supplier has property rights which relate to the application of the product covered by the contract and supplied by them, they shall grant us free rights of joint use of their property rights to the extent of the product supplied, insofar as this is necessary to achieve the contractual purpose.

## **XVI. Liability, product liability, approval**

1. Insofar as the delivery or service is affected by errors and insofar as the supplier violates contractual due diligence, care, information or other obligations or insofar as they do not meet binding deadlines and they are responsible therefor (violations of contract), the supplier shall be liable to us for any damages arising as a result, without further evidence being required than that of an objective breach of duty, the causal link to the damage that has occurred and the amount of the damage.
2. Insofar as the supplier's liability under legal provisions depends on the supplier being responsible for the breach of contract, they may release themselves from liability by proving that they are not at fault. The supplier is responsible for the fault of their vicarious agents and suppliers in the same way as they are responsible when they are at fault. To this end, they cannot release themselves from liability solely by proving that their vicarious agents and subcontractors were properly selected and supervised.
3. Insofar as the supplier is liable, it releases us from all relevant claims made by third parties.
4. In the event that claims are made against us on the basis of product liability, the supplier is obliged to indemnify us against such claims if and to the extent that the damage was caused by an error in the subject matter of the contract supplied by the supplier and to the extent that the supplier themselves would be liable in relation to third parties. In these cases, the supplier shall bear all costs and expenses, including the costs of any legal action both in Germany and abroad.
5. Prior to a recall that is wholly or partially the result of a defect in the subject matter of the contract delivered by the supplier, we shall inform the supplier, give them the opportunity to cooperate and exchange ideas with them regarding efficient execution, unless the supplier cannot be informed or involved because of particular urgency

or because it would be unreasonable for us based on the overall circumstances. Insofar as a recall is the result of a defect in the subject matter of the contract delivered by the supplier, the supplier shall bear the costs of the recall. The supplier shall indemnify us against all costs, expenses and damages if they are responsible for the damage. Otherwise, legal provisions shall apply.

6. The principles of Section 254 of the German Civil Code shall apply accordingly to any damage settlement between us and the supplier.

## **XVII. Transferability and termination of the contract**

1. The transfer of rights and obligations arising from the contractual relationship requires our prior written consent. The supplier shall inform us without delay if the assignment of claims arising against us becomes necessary due to extended third-party property rights.
2. Without prejudice to other rights of termination or withdrawal, we shall be entitled to terminate or withdraw from the contract in whole or in part if the creditworthiness or delivery capacity of the supplier deteriorates to such an extent that fulfilment of the contract appears to be at risk, the supplier ceases to pay, and/or insolvency proceedings are initiated against them or the opening of insolvency proceedings is refused due to lack of assets.

## **XVIII. Potential disagreements**

1. The contracting parties undertake to conduct mediation proceedings in the event that any disputes arise in connection with a supply contract or regarding the validity thereof, to the exclusion of ordinary legal recourse.
2. Mediation shall be conducted in accordance with the mediation rules of the German Association for Mediation in Business (Deutsche Gesellschaft für Mediation in der Wirtschaft e.V. (DGMW)).
3. The parties shall jointly determine the mediator and the location for the mediation discussions. If an agreement cannot be reached regarding who the mediator should be or where the mediation discussions should be held, these shall be determined by the chairperson of the DGMW e.V. This designation/appointment shall be binding for the parties.
4. The costs for the mediation proceedings shall be borne by the parties, with each paying half, unless otherwise agreed.
5. If the parties fail to find a solution within the mediation proceedings that they are both satisfied with, they shall be free to refer the matter to a state court at the end of the proceedings. The mediator shall determine the conclusion of the proceedings.

6. The arrangement of mediation proceedings does not prevent the parties from initiating an urgent judicial procedure where necessary, with particular regard to an arrest or injunction procedure.

## **XIX. International sales contracts**

1. For cross-border supply contracts, German material law and the regulations laid down in the UN Convention on Contracts for the International Sale of Goods (CISG) shall apply, insofar as these General Terms of Purchase and the individual orders do not contain any different provisions.
2. In the event of any conflicts between the various contractual documents, they should be applied in the following order:
  - a) Individual orders
  - b) These General Terms of Purchase
3. To close any loopholes within the meaning of Art. 7, para. 2 of the UN Convention on Contracts for the International Sale of Goods, the provisions laid down in these General Terms of Purchase should be applied, as should the material law of the Federal Republic of Germany as a subsidiary measure.

## **XX. Place of performance, place of jurisdiction, applicable law**

1. The place of performance for the delivery is the delivery address indicated in our order.
2. The place of jurisdiction shall be Konstanz or the supplier's general place of jurisdiction, at our discretion.
3. Only the law of the Federal Republic of Germany shall apply. The terms of delivery shall be interpreted according to the INCOTERMS valid at the time the contract is concluded.
4. The place of performance for our payment obligations is any location where we or any of our subsidiaries hold an account at a financial institution.
5. There are no verbal ancillary agreements. Amendments, supplements and any other agreements must be made in writing. This also applies to waiving the requirement for written form. The requirement for written form may only be waived or renounced by way of express declaration and not by implication. Fax or email correspondence shall not be considered written form.