

Defendi Italy Srl

GENERAL TERMS AND CONDITIONS OF PURCHASE

1. **Scope**
 - 1.1 The present General Terms and Conditions of Purchase shall apply to all and any business dealings (goods and services) with the supplier even if no express reference is made to these terms. We do not allow any terms to the contrary or any deviating terms used by the supplier, unless such have been expressly approved by us. In particular, the acceptance of goods or services or payment shall not imply consent.
 - 1.2 Any amendments and additions to the present General Terms and Conditions of Purchase, as well as any general terms and conditions of sale of the supplier fully or partially different from the present General Terms and Conditions of Purchase will be valid and binding just upon express written acceptance by us.
 - 1.3 Our General Terms and Conditions of Purchase shall apply only with respect to entrepreneurs.
 2. **Conclusion of Contract**
 - 2.1 Offers and quotations prepared and issued by the supplier shall be free of charge and without commitment on our part.
 - 2.2 Our order shall be binding upon us only if it is confirmed in writing by the supplier within a time period of two weeks at the latest or within the term notified in our order.
 - 2.3 If the confirmation of order deviates from the order, especially as regards prices or delivery periods, the supplier must inform us thereof separately. Such deviations shall only become an integral part of the contract if confirmed by us in writing.
 - 2.4 If, upon conclusion of the contract, errors on our part occur through, unless these are due to fraud or gross negligence, e.g. on account of transmission errors, misunderstandings etc., any claims for compensation of damages asserted against us shall be excluded.
 - 2.5 Until completion of execution we shall have the right to demand modifications regarding condition or quality, delivery or delivery period of the ordered item and/or the ordered service without any extra cost upon us, unless the cost of the modification exceeds more than the [10%] of the price originally agreed. In such cases, the supplier will have to inform us about the increase of the costs and shall proceed with the supply only after our written confirmation.
 3. **Technical Modifications, Changes in Production**
 - 3.1 Following prior information to the supplier, we shall have the right to change the specifications and request that the supplier technically adapts the delivery items accordingly. If changes to the delivery items caused on our behalf result in any additional costs relating to the unit price or to one-time costs, such costs shall be borne by us if we have agreed to this beforehand in writing. If the modification caused on our behalf results in cost reductions the unit price shall be reduced accordingly to our benefit. In each case, the supplier shall inform us immediately of any changes in costs.
 - 3.2 In case of changes in the production relating to the products' manufacturing, including but not limited to specifications and material used for the production, as well as changes regarding sub-suppliers, we must previously approve in writing the change. In case of changes regarding the production, such as relocation of production within the same factory, production technology etc., the supplier will inform us in advance and we will be entitled to cancel the order with no payment obligations upon us within 3 working days from such communication. In case of a relocation of the production (i.e. completely different production site) by the supplier, we must previously approve such change and, in any case, we will have to test and approve the products manufactured before the first delivery. All communications and notifications pursuant to the present Section must be made via email to PCN (Product Change Notification) at the following email address: Acquisti@defendi.com.
 4. **Framework Orders, Call-offs**
 - 4.1 With framework orders or standing orders the respective quantities and types to be delivered shall be notified by us by individual call-offs. Unless otherwise agreed, such call-offs shall be binding unless the supplier objects to them in writing within a period of 3 working days from receipt of the call-off.
 - 4.2 If the supplier is not in a position to comply with the call-off times the provision laid down in section 5.2 hereof shall also apply.
 5. **Due Dates and Default**
 - 5.1 Agreed dates and deadlines shall be binding and must be strictly complied with by the supplier. Receipt of the delivery item and/or complete execution of the service at the agreed place of performance or the place of performance stipulated by us shall be authoritative for this.
 - 5.2 As soon as it becomes apparent to the supplier that goods or services might be delayed, the supplier must immediately inform us thereof in writing and unless we jointly agree a new date, we have the right to refuse the supply and the supplier will not be entitled to any payment and we can ask for the compensation for the damages suffered. The binding effect of the agreed date shall not be affected thereby. Any extra costs incurred thereby shall be borne by the supplier.
 - 5.3 If goods or services are performed prior to the stipulated delivery date, we shall have the right to reject such goods or services. Furthermore, partial deliveries and partial services may also be rejected by us.
 - 5.4 In case of default of the supplier we shall be entitled to claim a contractual penalty of 0,5% for each commencing week of the delay, however not exceeding 5% of the order value. Such contractual penalty may be asserted by us until full payment has been made for the item/service which was delivered late. The contractual penalty shall be offset against the default damage to be compensated by the supplier. Any claims for further damage shall not be excluded by the contractual penalty. All and any damage and costs incurred by the delay in delivery shall be compensated to us - including but not limited to damage and costs caused by production downtime as well as additional purchases which may have become necessary. Any unconditional acceptance of delayed deliveries or services shall not constitute a waiver of any claims to which we may be entitled on account of the delayed delivery or service.
 - 5.5 If the supplier is in default and after an additional period has been set - unless such can be waived in accordance with the law - we shall have the right, at our discretion, to withdraw from the contract, either in whole or in part, and/or to claim damages. Any further claims under the law shall be unaffected thereby. If deadlines or service are repeatedly missed and if delivery or service is repeatedly inadequate we shall have the right to withdraw from the contract, either in whole or in part, also with respect to deliveries or services not yet due or not yet performed or arising out of framework orders or standing orders or from other agreements or contracts. Any further claims shall not be affected thereby.
 - 5.6 If we are not able to accept the delivery or service due to circumstances which we cannot prevent despite taking reasonable care, the date of acceptance shall be postponed by the length of time the impediment continues. If, on account of these circumstances, acceptance is not possible for a time period exceeding 6 months, we shall be entitled to withdraw from the contract, either in whole or in part. In such case, the supplier shall not be entitled to any payment or damage claims.
 6. **Place of Performance, Passing of Risk, Spare Parts, Force Majeure**
 - 6.1 Place of performance for all deliveries and services of the supplier shall be the place of performance stipulated by us in the order.
 - 6.2 Dispatch of each shipment shall be notified to us by dispatch note.
 - 6.3 The risk of complete or partial loss, of damage or other deterioration of the delivery item shall pass to us when the goods or services are delivered to us to the place of performance stipulated by us.
 - 6.4 The place of performance is stipulated by us in the order.
 - 6.5 The supplier undertakes to supply us with spare parts at reasonable terms for the entire duration of the prospective technical use of the delivery items, and for at least 10 years after the end of the series production of our products. If the supplier intends to discontinue the production of a delivery item for us, including but not limited to spare parts, semi-finished products or raw material for us, the supplier must inform us thereof in text form at least 12 months before such production is discontinued, so that a final purchase of such items can be agreed for the future time.
 - 6.6 Force Majeure such as labor disputes, disruptions in operations for which we bear no responsibility, civil disturbances, governmental measures and other events beyond our control shall release us from the obligation to accept the delivery items and services punctually for the duration of such events. Should such events continue for a period of time that is not insignificant and lead to a reduction in our requirements - also as a result of procurement from another source which may have been necessary in the meantime - we shall have the right to withdraw from the contract, either in whole or in part, up until the expiry of one month following the termination of the event. Any other rights we may have shall be unaffected thereby.
7. **Prices, Payment, Cost Savings**
 - 7.1 The prices agreed in the order shall be fixed and shall be inclusive of freight, packaging and other ancillary costs free to the place of performance designated by us. Unless otherwise agreed in writing, prices shall be DDP (delivered duty paid as per the currently applicable Incoterms). Any price increases, irrespective of the reason thereof, also in case of framework contracts or standing supply contracts, shall only be recognized by us if an express agreement has been concluded to this effect in writing.
 - 7.2 Invoices shall be issued without delay after dispatch of the delivery items and/or complete performance of the services. Invoices shall be issued as originals, separately for each order, specifying the order number; VAT shall be stated separately in the invoice. Any invoices that are not issued in due form shall be deemed as not issued. Only goods, deliveries, services and invoices that are free from defects and that conform to the order shall oblige us to effect payment.
 - 7.3 Unless otherwise agreed in writing, payment shall be made within 150 calendar days. The terms shall start with the receipt of the invoice or, if the delivery item is received after the invoice, with the receipt of the goods, however, under no circumstances prior to the agreed delivery date.
 - 7.4 Bank transfer and direct debit shall be deemed as payment.
 - 7.5 Claims the supplier may have against us may only be assigned with our prior written consent.
 - 7.6 Any cost savings ensuing from the cooperation between us and the supplier shall be divided equally between the parties. If the share of one party is significantly higher, the division shall be made in proportion to the shares contributed.
 8. **Compliance with Legal Provisions, Substance Prohibition, Export, Customs**
 - 8.1 The supplier shall ensure that all legal provisions, ordinances and other regulations relating to each delivery item shall be complied with - including but not limited to all and any safety-related and environmental provisions. In particular, the provisions applicable in the country where the goods or services shall be used and laid down in the EU directives shall be complied with in all deliveries.
 - 8.2 For each individual delivery item the supplier undertakes to comply in every respect with the requirements and obligations relating to substance prohibition in accordance with the respective legal provisions and regulations. This shall apply in particular to the requirements and obligations of the REACH Regulation EC No. 1907/2006, the RoHS Directive RL 2011/65 EU, including the respective amendments and supplements, and their implementation into national law by the EU member states. Upon our request, the supplier will provide us with written, product-specific declarations of conformity which shall also apply with respect to our customers and which we can pass on to our customers.
 - 8.3 The supplier shall be responsible for ensuring that the items delivered by the supplier are not subject to any export restrictions. If such export restrictions come into consideration, the supplier must expressly advise us thereof in text form before delivery.
 - 8.4 On request, the supplier shall provide us with certificates of origin, supplier's declarations, statistical goods numbers and/or references as well as additional documents/data which may be necessary to comply with export requirements.
 - 8.5 Imported delivery items must be delivered duty paid. The supplier undertakes to allow inspections by customs authorities, to submit all required declarations and information and to obtain all necessary official approvals at its expense.
 - 8.6 In case of deliveries and services effected out of an EU country other than Germany the EU VAT identification number must be stated.
 9. **Compliance**

The supplier acknowledges that we have adopted an organization, management and control model pursuant to Italian Legislative Decree no. 231/01 (the "Model") and undertakes to comply with our Ethical Code of Conduct laid down according to the Model and available at: <http://www.defendi.com/Defendi-Italy-Ethical-Code-of-Conduct.pdf>
 10. **Reduced Incoming Goods Inspection and Requirement to Give Notice of Defects**

The supplier shall only supply delivery items which have been continuously inspected and have been approved by us and shall therefore abstain from a detailed incoming goods inspection at our site. We shall only be obliged to inspect the delivery items and give notice of defects as follows: upon receipt we will only inspect the identity and check for any external damage of the delivery items in transport. Subsequently, we will only inspect the delivery items within the framework of the ordinary course of business during their use in production. We shall notify any defects thus recognized as well as any apparent defects within a time period of 20 working days from the date of receipt of the goods or services by us or by one of our customers. The term shall be deemed to be complied with if the complaint is sent to the supplier in writing on the last day of the term by registered letter with acknowledgement of receipt or by email. In this respect, the supplier shall waive the objection of delayed notification of defects.
 11. **Material Defects and Defects of Title**
 - 11.1 The agreed specifications on the product condition or quality of the delivery items shall apply as a guarantee of quality and durability for the duration of the warranty period of 36 months.
 - 11.2 The supplier shall be responsible for ensuring that the items delivered and services provided comply with the provisions laid down by law and public authorities as to their sale and use and that they do not infringe any industrial property rights or any other third-party rights. The delivery items and services must as well with other statutory provisions, technical test rules and accident prevention provisions, as well as other standards and guidelines belonging to experts and/or technicians associations in this field must be complied with. The supplier shall be responsible for the quality of the items delivered and services provided including the tests therefore required, in particular within the framework of the agreed specifications.

11.3 We shall be entitled to the statutory rights in the event of material defects and defects of title without restriction. We shall be entitled to select the type of subsequent performance (remedy of defects or replacement). The supplier shall bear all and any expenses required for the purpose of remedy of defects or replacement. If the supplier fails to comply with the request for remedy of defects or replacement within a reasonable time or if the supplier fulfills the request only inadequately or if immediate remedy of defect is required for urgent reason we may have the defects remedied at the expense of the supplier or remedy them ourselves or make covering purchases at the expense of the supplier.

If we demand subsequent delivery or rework from the supplier, the supplier shall, to this purpose, also disassemble a defective delivery item and subsequently replace it with a defect-free delivery item. If the supplier is not in a position to do so at reasonable expense or if such is not possible for other reasons we shall do this for the supplier at the expense of the supplier.

Alternatively, we may also demand that the price of a defective delivery item be adequately reduced or we may hold the delivery item ready for pick-up for the supplier and either retain the purchase price or demand repayment of the purchase price or dispose of the defective delivery item at the expense of the supplier.

11.4 Unless otherwise agreed, a period of limitation of 36 months from the passing of risk shall apply to all claims for material defects or defects of title. Such period shall be extended by the period of remedy or replacement measures of the supplier from the date of receipt of our notification of defect until the supplier states the completion of the measures or refuses further remedy or subsequent delivery.

11.5 If costs are incurred by us on account of defects pertaining to the item delivered or the service provided, including but not limited to transport, travelling, labor or material costs or costs of an incoming inspection exceeding the ordinary extent or for sorting measures, the supplier shall refund these costs to us. The costs to be reimbursed by the supplier shall also include costs of assembly and disassembly, recall costs and costs of production downtime (inclusive of line stoppage). The obligation to reimburse costs shall apply irrespective of whether such costs are incurred at our site or at our customer's site.

11.6 If, even though the warranty period has expired, we remedy defects arising from a deficiency caused by the supplier for our customer free of charge or only for a share in the costs in order to avoid damage to our image (goodwill) the supplier undertakes to participate in the costs by assuming at least 50% of the costs incurred by us. In each individual case, a different rate may be agreed.

11.7 The supplier shall ensure that the items delivered by the supplier are traceable. If a defect is detected, it must be possible to trace it to a specific delivery in order to determine the time period regarding liability for defects and to be able to identify the total amount of the affected delivery items. If, in the event of a material defect and/or product liability, traceability is not possible the supplier shall compensate us for each and any disadvantage we may have on account of this. If the current deadline for liability for material defects of a defective delivery item cannot be determined for lack of traceability the supplier shall not be entitled to plead the statute of limitations unless the supplier can prove that the time period for liability for material defects has definitely expired.

12. Product Liability and Quality Assurance

12.1 If we are held liable for product liability or other provisions for a product defect or if we otherwise suffer damage in connection with the delivery of a defective delivery item, including but not limited to damage on account of necessary recalls, upgrading, etc., upon first request the supplier shall indemnify and hold us harmless from and against all and any damage if and to the extent that such damage has been caused by a defect in the item delivered by the supplier. In such cases the supplier shall bear all costs and expenses, including the costs which may be incurred by prosecuting the matter. The supplier undertakes to take out, maintain and upon request substantiate to us sufficient product liability insurance of a minimum coverage of EUR 5 million for each claim.

12.2 The supplier shall apply and maintain a quality assurance system suitable as regards type and scope and in compliance with the state of the art and prepare and keep documentation on all relevant data for a minimum duration of 10 years. In the event of being held liable under product liability the supplier shall be obliged to submit to us the respective documentation and records.

12.3 Subject to being given reasonable prior notice the supplier shall grant us and our authorized agents (if applicable, accompanied by agents of our customers) access to its premises as well as to the relevant documents and records at any time during normal business hours for the purpose of carrying out audits (system, process and product audits); during such visits the supplier will provide an appropriately qualified employee to be of assistance for answering questions and providing information.

13. Industrial Property Rights

13.1 The supplier shall ensure that the items delivered or the services provided by the supplier do not infringe any domestic or foreign industrial property rights and guarantees that we are completely free and authorized under copyright law to use them and trade with them both domestically and abroad. In the event of us being held liable by third parties for an infringement of domestic or foreign industrial property rights relating to the items delivered or the services provided upon first request the supplier shall indemnify and hold us harmless from and against all and any claims and damage incurred thereby. Such entitlement shall apply irrespective of any fault of the supplier. Any further legal claims we may have for defects of title regarding the items delivered to us or regarding the services provided shall be unaffected thereby.

13.2 On request, the supplier shall inform us of all and any industrial property rights it and/or its licensor holds in connection with the delivery item or the services provided. If the supplier becomes aware of any infringement of industrial property rights it shall inform us thereof in text form without delay and without being specifically requested to do so.

13.3 If the delivered item or the service provided infringes any industrial property rights the supplier undertakes, at its own discretion and at its own expense, to either modify the item delivered or the service provided in such a way that our use thereof does not infringe the property rights but so that the delivered item or the service provided complies with the contractual agreements, or to obtain the right of use and exploitation for us. If the supplier fails to do so, the supplier undertakes, at our discretion, to take back the delivery item or the service provided against reimbursement of costs and/or to compensate us for all and any damage incurred.

14. Rights of Ownership

14.1 We shall retain title to all and any tools, molds, samples, models, profiles, drawings, standard specification sheets, artwork masters, gages and other records provided by us; these shall not be passed on to any third party nor used otherwise for the supplier's own purposes without our express consent. They shall be protected by the supplier against unauthorized access or use and, unless otherwise agreed, must be returned in good condition together with the delivery at the latest – in case of long-term supply contracts at the end of the supply relationship. The supplier shall not be entitled to retain any copies thereof. There shall be no right of retention. Tooling owned by us must be marked as our property. The supplier must provide us with evidence of sufficient insurance coverage.

14.2 If tools, drawings or other manufacturing equipment are produced or prepared by the supplier upon our order and at our expense, it shall be agreed that title to such items shall pass to us immediately after their production. If we only pay a share of the costs we shall acquire co-ownership in proportion to our share in the costs. The supplier shall have the revocable right to keep these items in safe custody for us free of charge. We shall be granted all and any copyrights to these items for our sole usage. The supplier shall not be entitled to use these items beyond the scope of the order without our consent. The supplier shall be entitled and obliged to keep the items in safe custody, which right and obligation shall be revocable. The supplier shall mark the items in such a manner that our title to them shall also be documented vis-à-vis third parties. The supplier shall have no right of retention relating to these items.

14.3 Reservation of title by the supplier shall only apply if such refers to our payment obligations for the respective delivery items for which the supplier reserves title. Any extended or expanded reservation of title of the supplier shall not apply.

15. Right of Use

We shall be granted a non-exclusive, irrevocable, world-wide, gratuitous, transferrable as well as sub-licensable and indefinite license to all technical information, records and data, documentation, software, object source codes, other works as well as industrial property rights generated within the scope of the execution of a contract or necessary for the contractual usage of the goods and services. Such license shall include but not be limited to the right to use, process (e.g. by modification, reconfiguration or supplementation), duplicate, disseminate and sell the contractual items for our internal use and for use in connection with one of our products or for third-party use as well as to incorporate them in changed or unchanged form into one of our own products.

16. Confidentiality, Publicity

16.1 All and any technical data and other commercial or technical information not in the public domain which is disclosed to the supplier on account of the business relationship with us shall be treated as confidential by the supplier. Such information may only be used for the execution of our orders and may only be disclosed to such employees who need to be brought in for the execution of the order.

16.2 Without our written consent, the supplier shall not be entitled to report on or advertise the collaboration with us or in particular to include us in its reference list or use our logo.

17. Software

17.1 Software shall be delivered to us on customary data storage devices in machine-readable code, including user documentation.

17.2 If software is specifically developed for us we shall be provided with the source code, including manufacturer documentation.

17.3 For software developed for us and the respective manufacturer documentation and parts thereof the supplier shall grant us the right of use and exploitation in accordance with item 15 hereof. In case of any adverse third-party rights the supplier and we shall contractually agree the reasonable scope of our license.

17.4 The supplier shall not be permitted to duplicate, process or otherwise use the performance outcomes developed for us, neither in whole nor in part.

17.5 The supplier shall not be permitted to publish the performance outcomes developed for us, neither in whole nor in part.

17.6 The supplier shall procure and warrant us the non-exclusive, transferrable right, unrestricted as to space and time, to use and copy the delivered software for integration into other products or to have it used or copied by affiliated companies as under section 20 and by our distributors.

17.7 If procurement and warranty of a right specified in this paragraph is not possible from a legal point of view, the supplier shall inform us thereof in writing before conclusion of the contract. Thereby the supplier shall also provide us with the reasons why procurement and granting of such right is not legally possible.

17.8 The supplier shall warrant that at the time of delivery no part of the software delivered to us contains any malware which is intended and/or able to provide the supplier or any third party unauthorized access to our computer system or to read, write, copy, change, damage or delete software or data on our computer system without our consent or to initiate other processes with, in or on our computer systems that are not authorized by us.

18. Limitation of Liability

We shall be liable for gross negligence and willful misconduct. We shall only be liable for slight negligence in case of a breach of essential contractual obligations and, in any case, our liability will be limited to direct damages and maximum to the delivery item's price. In other respects, in case of slight negligence damage claims asserted by the supplier shall be excluded, irrespective of the legal grounds thereof.

19. Work Performed in our Factories

Any person performing work in one of our factories in fulfilment of a delivery or service shall observe the relevant legal provisions as well as site rules of the factory concerned. In case of non-compliance we shall assume no liability for any accidents occurring in our sphere of control – unless such accident was caused by us by fraud or gross negligence. The rules and regulations in force for entering and leaving our facilities shall be observed.

20. Transfer of Rights and Obligations

Any rights and obligations arising out of supply and service contracts shall not be transferrable to any third party. However, we shall have the right to pass on any rights and obligations from contracts on goods and services to be performed for us to our affiliated companies. An affiliated company for this purpose shall be a company directly or indirectly controlling us, directly or indirectly controlled by us or directly or indirectly under common control with us. Therefore, such affiliated companies shall not be deemed third parties within the meaning of these terms.

21. Jurisdiction, Applicable Law

21.1 Place of jurisdiction for all and any legal disputes arising out of the contractual relationship, its creation and effectiveness shall for both parties be the Court of Milan. At our option, we may also bring an action at the seat of the supplier.

21.2 The contractual relationship shall be governed by Italian law. The UN Convention on the International Sale of Goods (CISG) shall not apply.