

chargebyte, Inc. General Terms and Conditions of Purchase

Author: chargebyte@chargebyte.com

1. General

- 1.1 Supplier agrees to sell and deliver the goods and services specified in chargebyte, Inc's ("**Chargebyte**") Purchase Order in accordance with these General Terms and Conditions of Purchase (these "Terms"), any supplemental clauses referenced in the Purchase Order, and any documents specifically incorporated in the Purchase Order, all of which constitute the entire agreement between Supplier and Chargebyte (collectively, the "**Agreement**") and cancel and supersedes any prior or contemporaneous agreements. The Purchase Order may only be modified by Chargebyte's issuance of an amended Purchase Order to Supplier. Any additional or different terms contained in Supplier's forms or otherwise are rejected unless agreed to by Chargebyte by incorporation into the Purchase Order. "**Purchase Order**" used herein means a purchase contract transmitted electronically or in paper format to Supplier by Chargebyte.

2. Quote

- 2.1 In preparing a quote, Supplier must closely adhere to Chargebyte's inquiry for the quote and expressly identify any deviations therefrom in writing.
- 2.2 Quotes shall be provided free of charge and do not establish any obligations for the Parties.

3. Contract

- 3.1 The Purchase Order is Chargebyte's offer to Supplier, and the Purchase Order, along with any amendments and/or alterations, is only binding if stated so in writing or by fax or telefax, containing an order number. Chargebyte's Purchase Order is no longer binding if Chargebyte does not receive Supplier's written order confirmation stating the same content and order number (the "**Order Confirmation**"), within ten (10) days from the order date. Supplier accepts the Purchase Order only if Supplier provides Chargebyte with a written Order Confirmation. Chargebyte may cancel its Purchase Order any time before Chargebyte receives the Order Confirmation. Supplier's acceptance of the Purchase Order is expressly limited to Supplier's acceptance of the terms of the Agreement. If Supplier's Order Confirmation contains additional terms, the Purchase Order shall be deemed accepted but those additional terms shall not become part of the Purchase Order without Chargebyte's written consent. Neither Supplier's performance of any work nor delivery of any goods pursuant to the Purchase Order constitute acceptance of the Purchase Order.
- 3.2 The content, type and scope of delivery is determined by the Purchase Order, including any specifications and manufacturing documents.
- 3.3 Supplier shall promptly check the Purchase Order for any noticeable errors, ambiguities or incompleteness, or the unsuitability of Chargebyte's chosen specifications for intended use, and promptly inform Chargebyte about any necessary changes to the Purchase Order.
- 3.4 The following details shall be stated in all correspondence: the complete order number or contract number and call number, date of order, and the dispatcher of Chargebyte.

- 3.5 In fulfilling the Purchase Order, Supplier shall comply with all applicable laws and regulations, and delivery and packaging instructions provided by Chargebyte.
- 3.6 Chargebyte may demand reasonable changes of ordered goods within the customary quality and quantity tolerances. Any costs associated with such changes shall be adjusted by agreement between the Parties.

4. Delivery; Shipment; Acceptance

- 4.1 Once the Purchase Order has been accepted, variations from it, including delivery terms, are permitted only with Chargebyte's prior written consent. Unless provided for otherwise in the Purchase Order, the delivery and collection of goods may be performed during the regular business hours of Chargebyte (Monday – Friday, 7:00am – 3:30pm). A deviation in time has to be agreed separately in writing.
- 4.2 Time is of the essence. Agreed dates and time limits are binding and delivery of the goods to and receipt by Chargebyte must be affected within the time specified. Deadlines start with the order date. The **"Delivery Week"** is the week in which the delivery arrives at the specified place of receipt. Compliance with the delivery deadline is determined by the date of Chargebyte's receipt of the goods.
- 4.3 If Supplier has agreed to carry out installation or assembly and in the absence of any agreement stating otherwise, Supplier shall bear all necessary expenses, such as travel expenses, tooling charges and daily expenses.
- 4.4 Partial deliveries, changes to deliverables, and deviations from the indicated manufacturing process require Chargebyte's advance written consent. Chargebyte may request partial deliveries of the quantity order.
- 4.5 Supplier shall bear the risk and expense of shipment and must comply with all of Chargebyte's shipping instructions. Risk shall transfer to Chargebyte upon handover of the delivery at the specified place of receipt.
- 4.6 Supplier shall enclose with each delivery a delivery note stating Chargebyte's order number, order dates, and Chargebyte's item/drawing number. If Supplier fails to meet these requirements, Chargebyte may refuse the delivery without giving rise to any claims by supplier. The costs of such refusal shall be borne by Supplier.
- 4.7 Supplier must notify Chargebyte immediately of any foreseeable difficulties with regard to the production, supply of required materials, compliance with the delivery deadline or other similar circumstances that might interfere with Supplier's ability to deliver in a timely fashion or to deliver the agreed level of quality.
- 4.8 In the event of delivery delays, Chargebyte is entitled to terminate the Purchase Order, and Supplier shall compensate Chargebyte for all damages due to delay, including but not limited to any premium transportation or other costs incurred by Chargebyte in its efforts to mitigate the impact of Supplier's late performance. In the event of delay, Chargebyte may claim liquidated damages in the amount of 0.5% of the delivery value for each week of the delay, but not more than 5% of the delivery value in total. These remedies do not impact Chargebyte's ability to pursue any additional legal remedies.

- 4.9 If the delivery is directly dispatched to a third party at Chargebyte's request, Supplier shall keep Chargebyte informed accordingly, promptly and without solicitation, by a dispatch notice including all relevant information.
- 4.10 Chargebyte's acceptance of all deliveries is subject to inspection for verification of correctness and suitability of the goods. Chargebyte may return rejected goods at Supplier's risk and expense and, at Chargebyte's discretion, demand new delivery, rework or corrective action at Supplier's expense.
- 4.11 The acceptance of a delayed delivery or service does not include a waiver or renunciation of the claims to compensation and damages to which Chargebyte is entitled on account of the delayed delivery of service.

5. Force Majeure

- 5.1 In the event either party is unable to fully perform its obligations hereunder (except for Customer's obligation to pay for products ordered) due to events beyond its reasonable control, including but not limited to acts of God, action by any governmental authority (whether valid or invalid), fires, floods, windstorms, explosions, riots, natural disasters, wars, sabotage, labor problems (including lockouts, strikes, slowdowns), inability to obtain power, material, labor, equipment, or transportation, or court injunction or order, that party shall be relieved of its obligations to the extent it is unable to perform. Timely notice of such inability to perform shall be given to the other party.
- 5.2 During a force majeure lasting for greater than one (1) month, Chargebyte may withdraw from the Purchase Order in whole without further obligation or in part with Chargebyte's purchase requirements reduced to reflect the goods that Chargebyte procured elsewhere as a result of the force majeure.

6. Invoice and Payment

- 6.1 Payment terms are set forth in the Purchase Order. Prices are fixed prices that include ancillary costs (packaging, transportation, insurance, etc.), and free delivery to the specified place of receipt. Supplier shall promptly issue the invoice, indicating the order number and the delivery note enclosed with the delivery. Invoices shall be consistent with the terms of the respective Purchase Orders in their wording, order of items and prices. Supplier shall issue a separate invoice for each Purchase Order.
- 6.2 Periods for payment shall begin on the dates specified in the invoice, but in no event before the date on which the goods and correct and complete invoices are received by Chargebyte. Chargebyte will use commercially reasonable efforts to assist Supplier in correcting any invoice that has been rejected as incomplete or otherwise incorrect. Payment shall be deemed as having been made as soon as Chargebyte instructs its bank to transfer the billing amount. Chargebyte may pay with checks and/or bills of exchange.

- 6.3 If not otherwise specified in the invoice or agreed to in writing, the invoice shall be paid: (a) within fourteen (14) days of Chargebyte's receipt of both the goods and the invoice, subject to a 2% discount of the invoiced amount, (b) within thirty (30) days after Chargebyte has received both the goods and the invoice, without any discount and by a mode of payment reasonably determined by Chargebyte, or (c) by offsetting counterclaims.
- 6.4 Payment of invoices shall not be deemed acceptance of conditions and prices that are different from or in addition to the terms of the Purchase Order. Any failure of Chargebyte to make timely payment of an invoice shall not affect Supplier's warranty obligation or Chargebyte's other remedies as stated herein or in the Purchase Order.
- 6.5 Chargebyte may only be considered in arrears when a remainder has been issued following the date of payment as determined by the Purchase Order and these Terms.
- 6.6 Supplier may only assert a right of retention and the offsetting of counterclaims where such counterclaim is undisputed, legally established, or ready for decision. Chargebyte may offset its claims against Supplier against all amounts to which Supplier is entitled to from Chargebyte on the basis of Purchase Order or other express and valid legal grounds.

7. Warranty, Notice of Defects and Liability

- 7.1 Supplier represents and warrants that the delivered items have no defects affecting their value or suitability, has the agreed or warranted quality, are suited for the use provided for in the Purchase Order, and are in keeping with generally accepted standards of engineering and the most recent rules and regulations of applicable authorities, the latest safety requirements, and the health and safety protection and accident prevention regulations. If Supplier has warranted the properties or durability of the goods supplied, Chargebyte can file a claim under the terms of the warranty. This does not apply for defects or damage to the delivered item, which were caused by (a) regular wear, or (b) incorrect handling on the part of Chargebyte. Chargebyte will inform Supplier about (i) latent defects within ten (10) business days of finding the defect and (ii) all other defects within five (5) business days of delivery. The aforementioned conditions shall also apply in general to any warranty of services such as assembly, maintenance, etc.
- 7.2 Unless expressly agreed otherwise, the statutory warranty periods shall apply.
- 7.3 Supplier's warranty shall also cover parts manufactured by subcontractors.
- 7.4 With notice of defects, the period of warranty shall be extended by the time between notification and rectification of defects. If the delivered item is completely renewed, the warranty period is extended with respect to entire item. If the delivered item is partially renewed, the warranty period is extended only with respect to the renewed parts.
- 7.5 Any parts, disputed on the basis of Supplier's warranty, shall remain available to Chargebyte until they are substituted.
- 7.6 In urgent cases, Chargebyte may remove the defect at Supplier's expense or take any such action as may be necessary to protect Chargebyte's interest.
- 7.7 Chargebyte's acceptance of deliveries shall not affect Supplier's warranty obligations.

- 7.8 Supplier shall be liable in accordance with statutory regulations.
- 7.9 Supplier shall bear all costs of any expenses incurred as a result of the defective delivery.

8. Property and Copyright Protection; Retention of Title

- 8.1 Supplier warrants that the delivery and its utilization do not violate any rights of third parties. Supplier's production of deliverables shall fulfill all legal requirements.
- 8.2 If a third-party make any claims against Chargebyte due to a violation of such rights, Supplier shall indemnify Chargebyte upon first demand against any claims for damages. Supplier's indemnity obligation applies to all expenditures accrued from or in connection with any claims asserted against Chargebyte by third-parties.
- 8.3 Supplier may only use or copy any models, samples or other documents that Chargebyte provides or that Supplier creates on the basis of Chargebyte's specifications, to the extent necessary to process the quotation and execute the Purchase Order. Supplier shall promptly return any such models, samples, or other documents to Chargebyte upon request after the execution or termination of the Purchase Order.
- 8.4 Supplier may not offer or deliver to third parties any items produced on the basis of Chargebyte specifications without Chargebyte's express consent. If Supplier makes improvements on the basis of Chargebyte's manufacturing documents, Chargebyte shall have a non-exclusive right, free of charge, to also use such improvement and any corresponding intellectual property rights.
- 8.5 Chargebyte is the sole owner of all property rights, rights of use and all other rights with regard to all results (including all inventions, know-how, test reports, studies, developments, suggestions, ideas, designs, samples, models, templates, etc.) achieved by Supplier in connection with this Agreement or the Parties' business relationship.
- 8.6 For software deliverables, rights of use are not limited to the object code of any software and Chargebyte may demand the disclosure of the source code and the documentation at any time, including during ongoing development
- 8.7 Supplier shall transfer title to all delivered goods to Chargebyte upon payment.
- 8.8 Any models, samples, or other documents that Chargebyte provides Supplier or that Supplier creates on the basis of Chargebyte's specifications are Chargebyte's property and may only be used from for processing of the quotation and execution of the Purchase Order. Supplier must promptly return any such models, samples or other documents to Chargebyte upon request after the completion or termination of the Agreement.

9. Product Liability

- 9.1 In the event that claims are asserted against Chargebyte on the basis of product liability, Supplier shall indemnify and hold Chargebyte harmless against such claims if and to the extent that the damage was caused by a design flaw as delivered by Supplier to Chargebyte. In such cases, Supplier shall bear all costs and expenditures, including the cost of any legal prosecution. For all other cases, the statutory provisions shall apply.
- 9.2 Before the initiation of any recall campaign that is wholly or partly the consequence of a defect caused by Supplier, Chargebyte will inform Supplier, give Supplier an opportunity to cooperate and discuss with Supplier the ways of efficiently handling of the campaign unless such information or involvement of Supplier is not possible for reasons of urgency. Supplier shall bear all costs of any recall campaign resulting from Supplier-caused defects.
- 9.3 Supplier shall carry insurance coverage that is appropriate for the contractual risks, specifically to include product liability insurance to cover the costs of possible recall actions but not with a coverage amount of less than \$2,500,000 USD for each event of personal injury or property damage. Upon request, Supplier shall provide Chargebyte with proof of the insurance policy and the regular payment of the insurance premium.

10. Statutory Rights of Withdrawal and Termination

- 10.1 Chargebyte may terminate the Purchase Order immediately, if, in Chargebyte's sole determination, (i) Supplier has stopped supplying its customers, (ii) Supplier's financial circumstances deteriorate materially or threaten to deteriorate and the compliance of delivery obligation is endangered, (iii) Supplier is unable to pay or stops payment of its debts or enters the state of excessive indebtedness, or (iv) Supplier applies for insolvency proceedings or similar proceedings to settle of debts.
- 10.2 If Chargebyte terminates the Purchase Order pursuant to this Section, Supplier shall compensate Chargebyte for any damages that are attributed to Chargebyte terminating the Purchase Order and its reasons for terminating the Purchase Order.

11. Execution of Work

- 11.1 All of Supplier's employees and agents performing work under the Purchase Order on Chargebyte's premises shall observe and comply with all of Chargebyte's workplace rules.

12. General Provisions

- 12.1 This Agreement shall be governed by the Uniform Commercial Code and other applicable laws in effect in South Carolina on the effective date, including its choice of law provisions. The provisions of the United Nations Convention on the International Sale of Goods shall
- 12.2 Greenville County, South Carolina shall be the sole and exclusive jurisdiction and venue for any litigation, special proceeding, or other proceeding between the parties that may be brought or arise out of or in connection with or by reason of this agreement.

- 12.3 Neither party may assign its rights or obligations hereunder without the other party's prior written consent. A corporate reorganization, which does not result in a change of control or beneficial owner, shall not be deemed an assignment.
- 12.4 The Customer and Chargebyte are independent contracting parties. Nothing hereunder or in the course of performance of this Agreement shall grant either party the authority to create or assume an obligation on behalf or in the name of the other party, or shall be deemed to create a relationship of joint venture, partnership, association, or employment between the parties
- 12.5 If any provision of this Agreement is declared invalid, void, or unenforceable, the validity of any other provision and the entire Agreement shall not be affected.
- 12.6 Chargebyte's Business Partner Code of Conduct shall be incorporated by reference.