

Terms of use for the EISENMANN supplier portal

PREAMBLE

The EISENMANN supplier portal provides a platform for the communication between EISENMANN and suppliers of EISENMANN and is intended to simplify, accelerate and more efficiently implement business processes, in particular with regard to the conclusion of contracts. The portal allows suppliers to register with EISENMANN and to manage data used for the process, to obtain information about and participate in current tenders, to submit quotes, view orders and exchange information with EISENMANN. However, the conclusion of contracts via the portal alone is not possible. For the proper achievement of these purposes, the following terms of use must be observed by all users of the EISENMANN supplier portal.

1. GENERAL

- 1.1 Operator of the EISENMANN supplier portal (hereinafter referred to as "**Portal**") is EISENMANN SE, Tübinger Straße 81, 71032 Böblingen (hereinafter referred to as "**EN**").
- 1.2 EN operates the portal on behalf of EN and the companies associated with EN (these companies and EN are hereinafter referred to as "**EN-Group**") as well as suppliers of companies of the EN Group (hereinafter referred to as "**Suppliers**") under the domain <https://www.eisenmann.com/>. Consumers are not authorized to use the portal.
- 1.3 The portal is intended for the exchange of information and the preparation and conclusion of contracts between companies of the EN Group on the one hand and suppliers on the other hand. Companies of the EN Group may enter tenders and inquiries into the portal and invite suppliers by email or other means of communication outside the portal to participate in these tenders or to submit a quote. Suppliers may enter quotes into the portal. Furthermore, companies of the EN Group may enter orders into the portal. In this case, the supplier shall also be notified by email or other means of communication outside the portal. **However, quotes and orders entered into the portal shall always be non-binding. This is why in order to conclude an agreement, the respective supplier and the respective company of the EN Group must always confirm the quote or the acceptance of the quote outside the portal, e.g. by email or fax.** All parties, i.e. companies of the EN Group and suppliers (hereinafter referred to as "**User**") shall agree that a declaration of intent sent electronically is just as legally binding as a declaration of intent in written form. All Users shall jointly and expressly waive compliance with the requirements of § 312i paragraph 1 page 1 no. 1 up to no. 3 of the German Civil Code (BGB) and art. 10 paragraph 1 and 2 as well as art. 11 paragraph 1 and 2 of the EC/2000/31 Directive (E-Commerce Directive).

- 1.4 The Users may store and/or print the contents they have access to in the portal at any time. This also applies to the current version of the terms of use.
- 1.5 The terms of use shall apply between the User and EN. If Users get in touch with each other over the portal, the same terms of use apply between them.
- 1.6 The companies belonging to the EN Group shall merely act for themselves. In its capacity as operator of the portal, EN is not a party of the contracts concluded on the portal between the Users. The contracts concluded via the portal between suppliers and companies of the EN Group must exclusively be concluded between the respective parties. EN shall also not be responsible for information provided by other Users via the portal. In addition, EN shall not be responsible to generally review all information provided by other Users via the portal.
- 1.7 The use of the portal is free of charge. The expenses incurred to the User regarding the use of the portal such as use of internet, the establishment of the proper conditions for registration or self-administration, shall not be reimbursed by EN.
- 1.8 EN shall operate the portal with due care, however, EN does not owe faultlessness, a certain level of availability and/or quality of the portal.

2. **REGISTRATION**

- 2.1 Users should always apply for registration via the portal. For this purpose, an authorized representative of the User (hereinafter referred to as "**Administrator**") must first truthfully complete an electronic form that can be downloaded on the portal. The completed form has to be submitted to EN via the portal together with a consent to these terms of use. Furthermore, he/she must conclude an adequate order data processing agreement according to § 11 of the Federal Data Protection Act ("**BDSG**") with EN.
- 2.2 After submitting the application for registration via the portal, the Administrator shall immediately receive an electronic acknowledgment of receipt by EN including his/her data provided and these terms of use. The acknowledgment of receipt does not constitute an acceptance of the registration, but merely confirms that EN has received the application for registration.
- 2.3 EN shall notify the Administrator separately, by email to the email address provided by the Administrator, about whether the application for registration is accepted or declined. Upon receipt of an acceptance, the agreement for the use of the portal has been concluded. However, EN reserves the right to decline applications for registration. There is no entitlement to the use of the portal, a certain availability or individual portal functions.

- 2.4 In individual cases and after a separate agreement with EN, EN can grant a User access to the portal, even without an application for registration. In this case, the access data is forwarded to the User outside the portal (generally by email).
- 2.5 During the course of registration, the Administrator shall receive a user name and a password generated by the system. EN advises to immediately change this password. During the selection of a new password, the User should make sure that the password meets the general safety standards, in particular, that no noticeable repetitions of the same symbols are used, and that it does not comprise of words and/or names familiar to everyone.
- 2.6 After a successful registration each administrator is offered the opportunity to apply for additional accesses to grant to other individuals. The User shall undertake to make sure that only those individuals gain access who are authorized to represent the User on the portal.

3. **OBLIGATIONS DURING THE USE OF THE PORTAL / ACCESS TO NOTIFICATIONS**

- 3.1 The User shall undertake to only use the portal for the purposes defined in the preamble and section 1, and to maintain the necessary technical equipment at state-of-the-art and proper functional state.
- 3.2 The User shall inform EN immediately, if he/she discovers malfunctions of the portal or if he/she has good reason to suspect such a malfunction. The obligation of notification applies independent of the area of responsibility in which the malfunction has occurred or is suspected to have occurred.
- 3.3 The User shall assume the risk of transmitting messages, information and other data up to the EN gateway. He/she shall agree to never use or transmit or enter into the portal software and data that is not authorized, or that contains viruses, or that is in any other way made to impact, modify or destroy technical equipment, software or data by EN, other Users or third parties. Furthermore, the User shall not be permitted to contravene the rules of good conduct, or violate industrial property rights, copyrights or any other rights by EN, other Users or third parties, nor in any other manner violate governing legislation during the use of the portal. The User shall indemnify EN and the other Users from all potential claims by third parties based on a violation of a contractual obligation.
- 3.4 The User shall make sure that access data is distributed, passed on and stored carefully. He/she must also ensure that no unauthorized third party obtains knowledge of the access data. If the User has reason to assume that an unauthorized third party has obtained knowledge of the access data, or such data is intentionally misused, he/she shall have to notify EN without delay. In addition, the User shall make sure that individuals who are no longer authorized to represent the User are blocked. Information given utilizing access data of a User, is attributed to this User accordingly. The attribution shall be dropped, if the User

can verify that the information was not passed on by him/her and he/she is not responsible for the misuse. In the event that a password is lost, the User shall undertake to immediately apply for a new password via the portal.

- 3.5 The User shall be obliged to keep his/her registration data complete and updated at all times. Any changes must be reported to EN without delay and entered accordingly into the portal. This applies in particular to individuals authorized by the User to use the portal, as well as email addresses or other addresses, such as of the company, or bank accounts and/or VAT ID numbers.
- 3.6 The Users shall be responsible for meeting their lawful duty to preserve records. They shall undertake to be able to present copies of the data provided to the portal outside the portal at any time.
- 3.7 The Users shall undertake to secure the technical equipment necessary for the use of the portal against unauthorized access by third parties, misuse, data loss, unauthorized data modifications and other comparable risks according to state-of-the-art technology.
- 3.8 In the case of infringement against the aforementioned provisions, in particular misuse of access data, EN shall reserve the right to block access and initiate legal actions.

4. COPYRIGHTS / TRADEMARK RIGHTS

- 4.1 The pages, texts, images and graphics as well as their layout are protected by copyright. Rights of use shall only be granted as long as this is necessary for the lawful use of the portal. In addition, no license to use the intellectual property of EN companies of the EN Group or third parties shall be granted.
- 4.2 Trademarks used in connection with the portal are registered trademarks of EN, affiliated companies or third parties. This applies in particular to brands, type designations, logos, emblems. Any unauthorized or improper use of these trademarks shall be strictly prohibited.

5. HYPERLINKS

The portal may contain hyperlinks on websites of third parties. EN shall neither assume any responsibility for the contents of such websites, nor shall EN adopt such websites and their contents as its own. These websites and their contents shall not be monitored by EN, and EN shall not assume responsibility for the contents and information provided on these sites. These websites shall be used at the User's own risk.

6. MODIFICATIONS / TERMINATION

- 6.1 This contract regarding the use of the portal shall be concluded for an indefinite period. Both EN and the User are entitled to terminate this contract in writing (e.g. by email) giving one (1) week notice. The right to extraordinary termination for important reason shall remain unaffected.
- 6.2 The termination of this contract regarding the use of the portal shall not affect any contracts concluded outside the portal.
- 6.3 In case of termination, EN shall delete all data regarding the User, as soon as the data is no longer required for the processing of contracts, or is subject to legal obligations to preserve records.

7. **LIABILITY**

- 7.1 EN shall only be liable - subject to the legal statutory of liability - for damages and reimbursement of costs in the event of intent, malicious intent, or gross negligence, or in case of injuries to life and body or health, according to the Product Liability Act, or in other cases of statutory liability.
- 7.2 In cases of simple neglect, EN shall assume liability for typical and foreseeable damage, if a special degree of trust has been claimed, or a major contract obligation (cardinal obligation) was neglected. The parties assume that typical, predictable damage shall not exceed the amount of EUR 500,000.00 . Cardinal obligations refer to those obligations the neglect of which endangers to serve the purpose of the contract, or which must be fulfilled before the contract can be implemented properly, and on the fulfillment of which the customer relies. In all other cases, EN's liability for payment of damages and/or reimbursement of expenses shall be excluded.
- 7.3 An obligation for payment of damages and/or reimbursement of expenses for apocryphal, erroneous and/or incomplete information shall not apply, as far as the recipient has noticed the lack of authenticity, lack of accuracy or incompleteness of the information, or should have recognized it with reasonable diligence.
- 7.4 In the event of liability of EN, a contributory negligence of the User shall have to be taken into account in a reasonable way, especially in case of inadequate data backup on the part of the other party involved. Data back-up shall be deemed to be insufficient, if the other party has not taken adequate precautionary measures to provide protection against external influences, (including but not limited to computer viruses) which may endanger individual items of data or entire sets of data.

8. **PRIVACY POLICY / CONFIDENTIALITY**

8.1 EN, the other companies of the EN Group and the suppliers shall undertake to comply with the applicable data protection regulations. As soon as EN - as operator of the portal - collects, processes and uses personal data of the Users (including the disclosure towards other Users and the notifications by email), EN is acting as an order data processor in the sense of § 11 of the German Data Protection Act (BDSG). Details regarding this agreement are stipulated in the order data processing agreement according to § 11 of the Federal Data Protection Act concluded between EN and the respective User. However, EN is also a User of the portal.

8.2 The data of a User shall be made accessible by EN as operator of the portal as follows:

a. Data of suppliers

The data provided for the portal by a supplier shall not be visible to any other suppliers on the portal. The master data (i.e. information about the company as well as contact data of responsible contact partners) collected from a supplier on the portal shall only be accessible to employees of the EISENMANN Group in Germany, the US, Mexico, Spain, France, Italy, South Africa, Great Britain, the Netherlands, China, Russia, Finland, Turkey, Poland, Hungary, Slovakia and Belgium from the Purchasing and Legal sector. Concerning data collected on the portal with regard to a specific business transaction (e.g. a quotation), the supplier can decide to which company of the EN Group it is directed to. The transaction data can then be accessed by the relevant employees from the Purchasing or Legal division of the company, as well as employees of other companies of the EN Group, if required, and if they are superior or act in an advisory capacity with regard to procurement contracts.

The employees of the EN Group shall have access or insight to the data in order to obtain information relevant to potential procurement contracts with your company, and to prepare, process and conclude such contracts.

b. Data of companies belonging to the EN Group

The data entered by companies of the EN Group shall be accessible to those suppliers with who the respective company exchanges information via the portal. Furthermore, it shall be accessible to employees of the Purchasing and/or Legal division of other companies of the EN Group, if they are superior or act in an advisory capacity with regard to procurement contracts.

Further details regarding the handling of personal data of the User by EN are stipulated in the privacy policy on the portal.

8.3 All Users of the portal ensure that the collection, processing and use of the personal data entered onto the portal is legal from a data protection perspective and complies with these terms of use and privacy policy of the portal (including the disclosure towards EN as the

operator of the portal and other Users, as well as the notifications by email). Should a User be attacked due to collecting, processing and/or using personal data entered onto the portal by another User in compliance with the contract, the User who entered the personal data onto the portal shall reimburse the attacked User all resulted damages and expenses incurred due to the infringement of the contract (including potential fines).

- 8.4 Without prejudice to other legal or contractual obligations to confidentiality and/or secrecy, the following shall apply up to three (3) years after the expiration of these terms of use:

The Users shall undertake to keep confidential any confidential information received over the portal, in particular, not to disclose any such confidential information to any third party, and to use these exclusively for the purpose intended. Information shall be considered confidential if it is specified as confidential or under the circumstances should be recognized as confidential. Confidential are, in particular, all contents of tenders and orders by companies of the EN Group, as well as orders by the suppliers entered onto the portal. Third parties are consultants not appointed by a User and subject to a professional duty of confidentiality (including lawyers, tax consultants, auditors). The Users shall undertake to protect all confidential information received against unauthorized access by applying adequate measures.

The obligation of confidentiality shall not apply to information already generally know to the public upon receipt, or had become publicly known subsequently, without a wrongful act of the receiving User, or was disclosed to the receiving User by a party not bound to any secrecy, or if the receiving User is subject to compulsory disclosure due to statutory obligations, or judicial or official order.

9. **OTHER PROVISIONS**

- 9.1 If individual provisions of these terms of use are or should become wholly or partially ineffective, the effectiveness of the remaining provisions of these terms of use shall remain unaffected. In such a case, the parties shall replace the regulation that has proven to be ineffective with an effective or practicable regulation that is most equivalent in terms of the economical result originally pursued. The same shall apply for any gaps in the provisions.
- 9.2 Place of jurisdiction for all disputes caused by, or in connection with the use of the portal shall be the respective court having jurisdiction over the registered seat of the EN.
- 9.3 German Law shall apply for these terms of use, excluding the provisions of the law on conflict of laws under international private law and excluding the provisions of the UN Convention on Contracts for the International Sale of Goods dated 04/11/1980.

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