



# exceet electronics AG

## General Delivery Terms

### 1 Scope of Applicability

1.1 Our goods, services and offers will be made exclusively on the basis of the present delivery terms. They will also apply to all future transactions even where they are not expressly agreed on again. Any business or purchase terms by the purchaser will not become part of the contract even where the purchaser indicated this upon acceptance of the contract and/or assumed that they would be recognized.

1.2 All changes and deviations from our delivery terms will only be binding where stipulated in writing.

### 2 Offer and Conclusion of the Contract

2.1 Elaboration of the offers will be on the basis of the documents and information provided by the purchaser. The purchaser will be liable for the accuracy of his information and the order and also for the timely receipt by us of the information regarding the goods ordered in such a way that the order can be carried out in good time. All drawings, illustrations, and data on capacity, weight and measurements are only approximate and are unofficial unless expressly specified as official. Unless the offer states otherwise, the compulsory term will be 4 weeks as from the date of the offer. Conclusion of the contract will take effect only after our written confirmation of the order or by the acceptance declarations by the purchaser. Our order confirmation will be authoritative for the scope of the mutual rights and duties.

2.2 Should technical problems arise in connection with the provision of services after the order confirmation, we are entitled to cancel our acceptance of the order at any time. Any liability for loss or damage suffered by the purchaser as a result of such cancellation is explicitly declined.

2.3 During the bidding phase, the purchaser shall inform us of any legal, governmental and/or other regulations that need to be observed in fulfilling the contract.

2.4 We will exclusively be entitled to the ownership right and copyright to all plans, drawings, illustrations, specifications, calculations and other documents. Said documents may not be passed or otherwise made accessible to third parties and must be returned to us unsolicited where the offer is not accepted. Our employees and vicarious agents do not have the right to conclude ancillary agreements or make verbal guarantees going beyond the subject matter of the written contract.

### 3 Software

The purchaser shall get a non-expiring, non-exclusive and non-transferable right to use the software and related documentation solely for the operation of the intended hardware. The purchaser shall not be entitled to reproduce the Software in whole or in part or modify, amend, or compile or compile back the Software. The Software and Documentation may only be copied for backup or archival purposes. The Purchaser warrants that he will not be made accessible the Software and Documentation in whole or in part to third parties.

### 4 Prices and payment terms

4.1 Prices are quoted net ex-works Rotkreuz (EXW, incoterms 2012), in the currency stated on the order confirmation, excluding value added tax, charges, customs duties, transport, packaging and insurance. Our invoices are payable net by the due payment date. Incomplete payments will be subject to a flat-rate processing charge. If the purchaser fails to comply with the agreed payment dates, he shall be deemed to be in arrears without warning from the due payment date.

4.2 If the purchaser is in arrears with the payment for services or an installment payment, we may postpone further services. In the event of late payment, we may charge interest on arrears at the rate of 10%, together with all pre-procedural costs incurred by it, in particular attorneys' fees, costs of debt collection agencies and also own expenditure. Counterclaims of the purchaser may not be offset without our written consent. Bills fall due for payment even if the purchaser complains of defects.

### 5 Delivery Period, Delayed Delivery

5.1 The delivery period is specified in our written order confirmation. The prerequisite for its observance is the settlement of all business and technical issues between the contracting parties and fulfillment by the purchaser of all duties incumbent on him such as obtaining the requisite official certificates or permits and payment of the agreed installment or any letters of credit or guarantees. Place of performance will be Rotkreuz.

5.2 Observance of the delivery deadline will depend on correct and timely supply to the supplier. In the event of delay, the purchaser must allow us a suitable period of grace for subsequent fulfillment. The delivery deadline will be deemed to have been observed where the good has left the factory up to the lapse of the deadline or readiness for dispatch has been declared. Where an inspection is to be carried out, the date of the inspection or declaration of readiness for inspection will be authoritative.

5.3 Where the shipping or inspection of the good is delayed on grounds for which the purchaser is liable, the costs and expenses incurred will be charged to him as from the date of declaration of shipment or readiness for inspection.

5.4 We will not be responsible for delay of goods and services on the basis of force majeure and incidents which hinder or prevent delivery, even where they occur with our suppliers or their subcontractors, even in the case of binding deadlines and dates. Such incidents will entitle us to postpone delivery of the good or service for the duration of the impediment plus an adequate run-up period or to wholly or partially rescind the contract due to the non-performed part.

5.5 Force majeure is an exceptional, unforeseeable and inevitable incident (e.g. natural catastrophes, war, acts of terrorism, revolution, high jacking and fire) the consequences of which cannot be averted by reasonable economic precautions. This includes official measures and government acts provided that they were not foreseeable or were not caused by an act or omission attributable to us. Natural incidents recurring periodically and illegal lockouts are not considered incidents of force majeure.

5.6 Where delivery is prevented for more than three months as stated in Item 5.5 above, the purchaser will have the right to rescind the contract on the basis of the non-performed part after stipulation of a period of grace. Where the delivery period is delayed or we are released from our duty, the purchaser cannot make any damage compensation claims on this basis.

5.7 We have the right to make partial deliveries of goods and services at any time. The purchaser accepts the excess deliveries and shortfalls amounting to 10% of the ordered quantity which are customary in this line of business. The quantity effectively delivered is charged.

### 6 Passing of Risk

6.1 The risk will pass to the purchaser as soon as the consignment is handed over to the shipper or has left our warehouse for shipment even where partial deliveries are being made or where we have taken on additional services e.g. shipping costs and delivery and assembly. Where an inspection is to be made it will be authoritative for the passing of the risk. It must be performed immediately on the inspection date or after declaration of readiness for inspection. The purchaser may not refuse inspection in the case of a minor defect only.

6.2 Where shipping/the inspection is delayed or cancelled due to circumstances for which we are not liable, the risk will pass to the purchaser on the date of declaration of readiness for shipment/inspection. We will be obligated to conclude the insurance policies requested by the purchaser at his expense.

### 7 Retention of title

7.1 Up until fulfillment of payment of the purchase price we reserve the right of ownership or all items delivered to the purchaser (reserved goods).

7.2 Upon conclusion of the contract the purchaser shall authorize us to have entered the reservation of title of the afore-mentioned objects in the official registers according to the laws of the respective Countries and to fulfill all formal requirements. The purchaser shall take all measures necessary to protect our property.

7.3 In the case of a breach of contract by the purchaser in particular in the case of delayed payment we will have the right to take back the reserved goods after a warning and the purchaser will be obligated to return them. In the case where insolvency proceedings have been filed for we will have the right to rescind the contract and demand the immediate return of the reserved goods. Any rights of retention are excluded in this case.

## 8 Guarantee

The customer shall verify the goods and services supplied by us within seven working days of receipt of the delivery. If no written complaints of defects are made within that period, the goods or services shall be regarded as complete, impeccable and approved in respect of visible defects, identity and quantity. The guarantee period for all goods and services is 12 months as from the date of the passing of the risk of the respective product or acceptance of the respective service. We provide a guarantee in the case of material and legal defects within the agreed guarantee period, excluding further claims, as follows:

### *Material Defects:*

8.1 All the parts which we choose to rectify free of charge or for which we provide replacement which prove to be defective on the basis of a circumstance prior to the passing of the risk. Detection of such defects is to be reported in writing to us immediately. Replaced parts will become our property.

8.2 The purchaser must grant us the necessary time for all rectifications and replacement deliveries we deem necessary, otherwise we will be released from any liability for ensuing consequences. The purchaser will only have the right to rectify the defect himself or have it rectified by third parties in urgent cases in which company safety is jeopardized or for prevention of disproportionately grave damage and to demand reimbursement of the expenses thereby incurred. However, the prerequisite for this is that we are informed of this immediately.

8.3 Provided that the complaint is justified, we will bear solely the costs of the spare part incurred by rectification or replacement. It starts no new warranty period for repaired or replaced parts. The purchaser has a right to rescission of the contract within the framework of the statutory regulations where we fail to comply with a deadline stipulated for us for rectification of a material defect or provision of a replacement, excluding the statutory exceptions. Where there is only a minor defect the purchaser will only have the right to reduction of the contractually stipulated price. The right to reduction of the contractually stipulated price is otherwise excluded. For testing of non-defective or otherwise unjustified returned products we will charge an inspection fee.

8.4 Guarantee claims by the purchaser are excluded in the following cases:  
Unsuitable or improper use, defective assembly/operation by the purchaser or third party, natural wear and tear, defective or negligent treatment, improper maintenance, unsuitable means of operation, chemical, electro-chemical, electrical or environmental influences, provided that we are not responsible.

8.5 Where the purchaser or a third party rectifies the delivery item or alterations are made to it without our consent, we will not be liable for the consequences.

### *Legal Defects:*

8.6 Where use of the delivery item entails infringement of industrial property rights or national copyright we will obtain the right for further use for the purchaser at our own expense or modify the delivery item in such a way that there is no longer an infringement of an industrial property right. Where this is not possible under economically adequate conditions or within an adequate period the purchaser will have the right to rescind the contract. We will also have the right to rescind the contract under the specified conditions. The duties specified above will only apply where the purchaser immediately informed us of infringements of industrial property rights or copyright and assisted us adequately with defense against the claims or facilitated the implementation of the modification measures and all defense measures including out-of-court settlements are reserved to us and the legal defect is not

based on an instruction by the purchaser, design papers instructed by him or other instructions by the purchaser and the legal violation was not caused by an unauthorized modification of the delivery item by the purchaser or use of the item by him in a manner which does not comply with the contract. Only the direct purchaser will be entitled to guarantee claims against us and such claims are not assignable.

8.7 The above terms conclusively include all claims for our goods and services. Further guarantee claims are excluded.

## 9 Liability

9.1 Where the delivery item cannot be used in accordance with the contract due to our fault as a consequence of non-performance or defective performance or proposals and consultations prior to or after conclusion of the contract or by violation of other ancillary duties - in particular instructions for operation and maintenance of the delivery item, the terms set out in Item 8 of the present terms will apply against us and our vicarious agents, excluding further - reaching claims.

9.2 Regarding damage not incurred to the delivery item itself we will be liable, irregardless of the legal grounds, only in the case of - intent - gross negligence by our board members or executives - defects which we willfully concealed or which we guaranteed did not exist - defects of the delivery item where liability is assumed for personal or material damage to privately used items is assumed on the basis of the Product Liability Act. In the case of culpable breach of cardinal contractual duties we will only be liable for damage typical of the contract and which was reasonably foreseeable. Further claims are excluded.

## 10. Cancellations

10.1 The cancellation of orders requires our express written consent as well as the complete takeover of all expenditures for materials, labor and expenses by the Purchaser.

10.2 We are entitled to withdraw from delivery obligations if the financial situation of the Purchaser has significantly deteriorated or in cases the situation is different than it was represented to us.

## 11 Export

The purchaser is responsible for ensuring compliance with all the relevant, domestic and foreign export regulations.

## 12. Working documents

Documents, aids and test programs, together with EDP data, are prepared by us for production purposes on the basis of drawings or electronic data provided by the purchaser and which are not billed to the purchaser, constitute production tools and are our property.

## 13. Final Provisions

13.1 Should a term of the present Purchase Terms and the respective additional agreements be or become invalid, this will not affect the validity of the remaining terms. The invalid term is to be replaced by a term which comes as close as possible to the economic purpose of the invalid term.

13.2 This agreement shall be governed by Swiss law to the exclusion of Vienna purchasing law (United Nations Convention on contracts for the international purchase of goods). The place of jurisdiction is the court having authority at the place where we have our registered office. We may also take action in the court at the place where the purchaser has his registered office.

Rotkreuz, 1st January 2015