



General Terms and Conditions of Business
(status 3/04)

(on the basis of the ZVEI e.V. recommendation on conditions)

1. General provisions

The written declarations by both parties are deemed authoritative in respect of the scope of the deliveries or services (hereinafter Deliveries). In addition these General Terms and Conditions of Business apply. General terms and conditions of the Buyer shall only apply insofar as the Supplier or the party rendering the service (hereinafter Supplier) has expressly approved of such conditions in writing. In other respects the regulations of Verband Deutscher Elektrotechniker apply insofar as they are taken into consideration in respect of the safety of deliveries or services.

These General Terms and Conditions of Business also apply to all future transactions with the Buyer.

The Supplier reserves unrestricted ownership and copyright utilisation rights to cost estimates, drawings and other offer documents (hereinafter Documents). These may not be made available to third parties without approval by the Supplier and on request they are to be returned without delay if the order is not placed. This applies accordingly to the Buyer's documents. However, these may be made available to third parties to whom the Supplier is permitted and intends to assign deliveries.

The Buyer enjoys the non-exclusive right to use standard and individual software with the agreed performance factors in an unaltered form on the agreed equipment.

The Buyer may not assign or make this software available to third parties for use. Partial deliveries are permitted. In the case of order-related production, excess or short deliveries in each case of 10% are permitted.

2. Securities

The Buyer's creditworthiness is the prerequisite for an obligation to deliver. As a general rule the Supplier is entitled to demand advance payments, securities or cash payments insofar as it considers this necessary. If the Buyer remains in arrears in respect of honouring its payment obligations, or if it does not answer questions regarding its creditworthiness, the Supplier reserves the right to withdraw from the contract and, if applicable, demand claims for damages as a result of non-performance. In such cases goods that have already been delivered are to be returned to the Supplier in their original condition. Furthermore in the event of enforcement by writ in respect of the Buyer's assets, composition or bankruptcy proceedings, discontinuation of business operations or the transfer of a business as well as seizure, all the Supplier's accounts receivable shall fall due without delay. The Supplier is to be informed without delay of any considerable deterioration in the financial position (e.g. enforcement by writ, discontinuation of payment, composition, bankruptcy, discontinuation of business operations, the transfer of a business, seizure or the transfer of goods, inventories or outstanding items as a guarantee).

3. Delivery periods

Details in the confirmation of order are authoritative in respect of the delivery period. Adherence to the period is conditional on the following: the timely receipt of all documents, licences and releases to be obtained by the Buyer; self-deliveries; adherence to the terms of payment specified by the Supplier, and other obligations. The period shall be extended accordingly if these basic requirements are not met in good time.

The period is deemed adhered to if the goods have been dispatched, or collected, within the agreed delivery period. If the delivery is delayed for reasons for which the Buyer is responsible, the time agreed upon shall be deemed complied with on notification of the readiness to dispatch. If the non-adherence to the period for deliveries is proven to be attributable to force majeure, industrial disputes or unforeseeable obstructions, the period shall be extended accordingly.

In the event that the agreed or extended delivery period is not adhered to, the Buyer may, insofar as it furnishes proof that it has suffered damage as a result of the delay, demand compensation for delayed performance for each full week of delay from % to a total of 5% of the value of the part of the delivery that is delivered late. Further-reaching claims for compensation on the part of the Buyer are excluded. This does not apply insofar as mandatory liability

applies in cases of intent or gross negligence. This shall not affect the Buyer's right to withdraw following the lapse of a reasonable extension granted to the Supplier.

4. Passing of risk

Risk shall also pass to the Buyer in the case of a carriage-paid delivery if the goods have been dispatched or collected. Shipping shall be carried out according to the Buyer's instructions or according to the Supplier's best judgement without responsibility for the most cost-effective forwarding. At the request, and cost, of the Buyer, the Supplier shall insure the consignment against customary transport risks. If the shipping is delayed at the Buyer's request, or for reasons for which the Buyer is responsible, the risk shall pass to the Buyer from the day on which the goods are ready for dispatch. In such a case the Supplier shall be under obligation to bring about the insurance policies requested by Buyer at the Buyer's cost.

If goods are taken back, the Buyer shall bear the risk up to the receipt at the Supplier's premises.

5. Reservation of title

The delivery items (reserved goods) shall remain the Supplier's property until all the claims against the Buyer to which it is entitled from the business association are met. Prior to this pledging or ownership transfer by way of security are prohibited.

The Buyer may only sell the reserved goods, regardless of their condition, to resellers during the ordinary course of business subject to the proviso that it is not in arrears with payments due to the Supplier and that it assigns to the Supplier at this point in time claims, including all accessory rights, to which it is entitled from such a sale. The assignment of such claims is restricted to the amount of all the claims to which the Supplier is entitled resulting from the business association. The Buyer is also entitled to collect these claims following such an assignment. This shall not affect the Supplier's authority to collect such claims. On request the Buyer is to disclose to the Supplier the amounts and debtors in relation to the assigned claims, to make available to the Supplier without delay all documents required for collection, and to inform the debtor in writing of the assignment.

Treating and finishing the reserved goods shall by carried on behalf of the Supplier without the Supplier being under obligation. If the goods are combined or blended with other items, the Buyer shall assign to the Supplier at this point in time its property or co-ownership rights to the new items. It shall store these with commercial diligence on behalf of the Supplier. In the event of a sale of the new items, the Buyer hereby assigns to the Supplier its claims and accessory rights resulting from such a sale for safety's sake. If the Buyer finishes the goods with other goods that are not the Supplier's property, the Supplier shall be entitled to part-ownership of the new item in proportion to the value of the reserved goods.

In the case of conduct on the part of the Buyer in breach of contract, in particular in the case of default in payment, the Supplier shall be entitled to take back the reserved goods. At the Supplier's request the Buyer shall be under obligation to surrender without delay. Taking goods back and the seizure of the reserved goods by the Supplier do not constitute any kind of declaration of withdrawal.

The Buyer is to undertake all the necessary measures at its own cost to avoid a detrimental effect on or the loss of the rights to the delivered goods to which the Supplier is entitled. The Buyer is to ward off or inform the Supplier without delay of cases of seizure or other intervention by third parties. The Buyer shall be responsible for possible disadvantages it suffers as a result of it not observing this obligation.

6. Prices

The prices are stated in euros. They are ex works prices and exclude packaging and are to be construed plus the respective valid statutory value added tax.

In the case of goods purchased in a single order in excess of € 1,000.00 we shall deliver free of charge, carriage paid, to the receiving station excluding packaging. In the case of such an order in excess of € 2,500.00 we shall deliver free of charge, carriage-paid, to the receiving station including packaging.

7. Terms and conditions of payment

Payments are to be effected within 30 days from the date of invoice without any deduction ex paying agent of the Supplier. A trade discount of 2% shall be granted in the case

of payment within 10 days following the date of invoice. Payment arrears or payment by bill of exchange rule out the deduction of a trade discount. Cheques shall only be accepted subject to the customary reservations, while bills of exchange shall only be accepted following a special agreement and if they comply with the acquisition conditions of the European Central Bank (ECB). Discount charges, fees and tax on notes and bills of exchange shall be borne by the Buyer. These are to be paid upon issuing the bill of exchange to the Supplier. In the case of all kinds of payment the day of performance shall be deemed the day on which the Supplier can dispose of the amount.

In the event that the term of payment is exceeded, or the delivery is delayed, at the Buyer's request by more than 30 days once the goods are ready for dispatch, the Supplier shall be entitled, without the necessity of issuing a special warning, to charge interest on arrears of 3% p.a. above the respective main refinancing rate of the ECB as from the due date, at least, however, amounting in each case to the interest rates charged by major Rhine-Westphalian banks for unsecured credits. The Supplier reserves the right to assert a claim on the grounds of greater damage. In other respects in the case of default in payment the Supplier shall be entitled to demand the surrender of the goods and claim for damages as a result of non-performance.

The Buyer may only set off undisputed or res judicata claims against the Supplier's claims.

8. Liability for defects

The Supplier guarantees that the sold goods do not contain defects at the time of the passing of risk. Insofar as parts proven to have been procured from the Supplier contained defects prior to the passing of risk, the Supplier shall be liable to the Buyer as follows:

1. The Buyer shall only be entitled to the warranty rights below if it has met in a proper manner the requirement to give notice of defects incumbent upon the Buyer by way of written notification of the identified defects, and it has returned to the Supplier the goods for which a complaint has been lodged.

2. All the parts or services whose usefulness is considerably impaired within 12 months, without consideration given to the operating period, calculated from the day on which the risk passes, as a result of an incident prior to the passing of risk, are to be subsequently improved at the Supplier's discretion free of charge, or new ones are to be supplied or new services are to be rendered.

3. If the Buyer provides notification of defects in relation to the delivered goods or service, this shall only constitute a right to retain payment if the existence of a defect is res judicata or is not disputed by the Supplier. In this respect the retained payment must be commensurate with the respective faults.

4. The Buyer is to use its reasonable discretion to grant the Supplier appropriate time and opportunity to rectify defects. If it refuses to do this the Supplier shall be released from the liability for defects.

5. If the Supplier allows a reasonable extension granted to the Supplier to lapse without rectifying the defect, or if the subsequent improvement is impossible or the Supplier refuses this, the Buyer may assert a right to reduce the purchase price. The Buyer may also demand conversion if an agreement in respect of abatement is not reached between the Buyer and Supplier.

6. The Buyer's right to assert claims resulting from defects shall in any case fall under the statute of limitations in 6 months from the time of notification of defects. However, this shall not be before the warranty has elapsed. If no agreement is reached within this period, the Supplier and Buyer may agree upon an extension of this period of limitation.

7. The liability for defects does not apply to natural wear-and-tear and furthermore not to damage that occurs following the passing of risk as a result of faulty or negligent treatment, excessive or improper use, unsuitable operating resources, faulty construction work and similar external influences that were not presupposed as per agreement, and non reproducible software faults. If the Supplier is rendered liable for damage as a joint debtor by a third party for one of these reasons, the Buyer irrevocably assumes the liability at this point in time by way of internal arrangements.

If the Buyer or third parties carry out impro-

per alterations or repair work, no warranty shall apply to these and the consequences resulting from them.

8. The warranty period for subsequent improvements and replacement deliveries is 3 months. It shall apply at least until expiry of the warranty period for the goods for which a complaint has been lodged.

9. Further-reaching claims on the part of the Buyer against the Supplier and its vicarious agents are excluded, in particular claims for compensation of damage not caused to the delivery item. This does not apply insofar as mandatory liability applies in accordance with the Product Liability Act, with the restriction in accordance with sub-section 7, or in cases of intent, gross negligence or the lack of warranted characteristics

10. All kinds of liability are excluded in the case of defects in software products. It is expressly stated that no warranty is provided for functions, suitability, usefulness, non-violation or other expected characteristics. Accordingly liability for any kind of damage or consequential damage caused by the software in respect of the user or third parties is excluded. If mandatory legal norms do not allow for this comprehensive exemption from liability for software in certain cases, it shall nevertheless remain in place for all other cases.

9. Industrial property rights, copyrights

1. Insofar as a third party lodges justified claims against the Buyer as a result of violation of an industrial property right /copyright (hereinafter Copyrights) by way of products delivered by the Supplier and used as per agreement, the Supplier shall be liable to the Buyer as follows:

a) The Supplier shall, at its own discretion, bring about a utilisation right for the product, alter the product or replace it or if this is not possible under reasonable conditions take back the product subject to reimbursement of the purchase price. Further-reaching claims against the Supplier are excluded.
b) The aforementioned obligation of the Supplier shall only apply if the Buyer informs the Supplier without delay of the claims lodged by third parties; does not recognise a violation of industrial property rights, and the Supplier is reserved the right to conduct all defensive measures and hold composition negotiations.

2. Claims by the Buyer shall be excluded insofar as it is responsible for the violation of an industrial property right or if such a violation is caused by the Buyer's special parameters or unforeseeable application or alteration or blending with other products.

10. Impossibility, contractual adjustment

1. If it becomes impossible for the Supplier to honour the delivery incumbent upon the Supplier for reasons, which are its responsibility, the Buyer shall be entitled to request as compensation up to 10% of the value of the products that have not been delivered.

2. Insofar as events outside the Supplier's sphere of influence considerably change the economic significance or the content of the delivery, of have an effect on the Supplier's operations, the Supplier shall be entitled to withdraw from the contract or to adjust the contract in agreement with the Buyer.

11. Other claims for damages

The following claims for damages lodged by the Buyer are excluded: claims on the grounds of a positive breach of contract, violation of obligations in the case of contractual negotiations and on the basis of unlawful acts. This does not apply insofar as mandatory liability applies by law, in particular in the case of intent, gross negligence and the lack of warranted characteristics.

12. Place of jurisdiction

Hagen i.W. is deemed the place of general jurisdiction for all disputes resulting directly or indirectly from the contractual relationship. German law applies to the contractual relations. The Hague Convention of 01.07.1964 and the UN Sales Convention of 11.04.1980 shall not be applied.

13. Binding force of contract

Even in the case of the legal invalidity of individual items, the binding force of the contract shall further apply to the other items of the contract.