

1. Area of applicability

- 1.1 This conditions apply to purchase transactions between Elma Electronic AG («**Elma**») as the buyer and a natural or legal person or a partnership with legal responsibility performing their commercial or independent professional activities (entrepreneur) when they enter into the purchase transaction. Terms and conditions of the respective contracting party, which are contrary to or deviate from our terms and conditions shall not be recognized; this also applies if we do not expressly object to the terms of business or other contractual conditions of the respective contracting party. By accepting our order, you fully accept our General Conditions for Purchasing. Our General Conditions for Purchasing also apply to all future transactions with the respective contracting partner.
- 1.2 Deviations from our General Conditions for Purchasing shall only apply if and insofar as they have been laid down in writing in the respective contract and are confirmed by us in writing. The same applies to the application and inclusion of the contracting party's terms and conditions of delivery.

2. Conclusion of contract

- 2.1 All offers are free of charge and without obligation for us. If the contracting party creates an offer on the basis of a request from ELMA, it shall adhere strictly to the requirements contained in our inquiry and expressly point out any deviations. Irrespective of this, dimensions, weight and other descriptions contained in catalogues, advertisements and price lists are only approximate values which are only binding for us if expressly included in the contract.
The data provided by us before conclusion of the contract remain our exclusive property and must not be made accessible to third parties.
Offers made by the entrepreneur without specific deadlines are binding for 90 days.
- 2.2 Orders, agreements, amendments and verbal ancillary agreements are only binding if they have been issued or confirmed by us in writing.
- 2.3 If the contracting partner does not accept an order submitted by Elma within three business days after receipt in writing (order confirmation), we are entitled to revoke the order. If Elma is able to provide evidence that Elma has sent a declaration by fax or data transmission (including email), the declaration shall be deemed to have been sent to the contracting party.
- 2.4 Elma may also require changes to the delivery item after the conclusion of the contract if such changes are reasonable for the contracting party, in particular taking into account any additional or reduced costs and delivery dates.
- 2.5 The contracting party shall keep the conclusion of contract confidential. With Elma acting as its contractual partner, the contracting party is only permitted to name Elma as a reference with our express written consent. This also applies to any references made to Elma in advertising materials.

3. Prices

- 3.1 The price stated in the order is binding as a fixed price. The price does not include the respective applicable VAT.
- 3.2 If a price has been agreed «ex works» or «ex warehouse», Elma's regular appointed forwarder is to be appointed. In such cases, the contracting party shall bear all costs, including loading (excluding carriage), which are incurred until handover to the carrier.
- 3.3 If the contracting parties arrange a foreign transaction (involving a border crossing), the Incoterms (*international trade clauses*) and the CMR (*international agreement on road transport contracts*) shall apply in their respective valid versions.

4. Payment conditions

- 4.1 Invoices are to be submitted in full, i.e. including any accompanying documents, in due form after completion of the delivery. The actual quantities, weights or other units delivered and the agreed prices are decisive for the payment.
- 4.2 The payment shall be made in the manner customary in the trade. Elma shall pay the net purchase price no later than 60 days after the date of delivery and receipt of the invoice, unless otherwise agreed in writing.
- 4.3 If certificates of material testing have been agreed, these form an essential part of the delivery and must be sent to Elma together with the delivery. The payment period pursuant to paragraph 4.2 shall not commence before the receipt of the agreed certificate.
- 4.4 Payments shall not constitute recognition of the accuracy of the invoice and / or the contractual nature of the service. In the event of faulty delivery, Elma is entitled to withhold the payment until proper performance. Further claims remain unaffected.
- 4.5 Elma may offset all claims which Elma has against the contracting party against all claims asserted by the contracting party against Elma.

5. Delivery date, delivery delay, force majeure, transfer of risk

- 5.1 The delivery date specified in our order is binding. If a fixed delivery date is not fulfilled, the contracting party shall be in default with the delivery, with no warning required. The receipt of the goods at the place of receipt or use as designated by Elma is decisive for compliance with the delivery date. If acceptance is required, the contracting party shall be in default without warning, if it has not rendered the service on the agreed date in such a way, that acceptance cannot be refused (Art.102 of the Swiss Code of Obligations (OR)).
- 5.2 If the contracting party recognizes, that the agreed date cannot be adhered to, irrespective of the reason, we must be informed immediately in writing about the inability to meet the deadline and the anticipated duration of the delay.
- 5.3 In the event of default of the contracting party, we shall be entitled to rescind the contract and claim damages in place of performance following a grace period set by the contracting party. Further legal claims remain unaffected.

- 5.4 If the contracting party is in default of delivery, we are entitled to demand a contractual penalty of 0.5% of the total order amount for the delayed delivery for each working day, which passes after the delivery date, but no more than 5% of the purchase price. The assertion of further claims for damage remains unaffected. Elma reserves the right to demand the charged penalty as the minimum amount of damages. The assertion of a contractual penalty is excluded following unconditional payment of the final invoice.
- 5.5 All events of force majeure entitle each contracting party to postpone the fulfillment of obligations assumed or, if the execution of the contract becomes wholly or partly unacceptable, to rescind the contract to this extent without this resulting in a right to claim for damages against the other contracting party. Force majeure is defined as any event which occurs unexpectedly and is not culpably caused by either of the parties, in particular natural catastrophes, fires, lightning, explosions, poison or gas leaks, floods, general supply disruption, martial, terrorist and comparable effects, labour disputes in third-party companies and state interventions. Serious disruptions to business are also considered to be force majeure, if they result in the restriction or cessation of business operations, in addition to other circumstances which make the fulfillment of obligations substantially more difficult or impossible, irrespective of whether the business in question is that of a contracting party or a third party business, to the extent that the contracting party or third party are not responsible for these disruptions.
- 5.6 In the event of delivery before the agreed date, Elma shall not be obliged to accept delivery. Elma may optionally return the goods at the expense of the contracting party or store the goods at the expense and risk of the contracting party up to the agreed delivery date. Early delivery does not affect any due date.
- 5.7 Elma shall only accept partial deliveries by express written agreement. If a partial delivery has been agreed, the contracting party shall list the remaining quantity of goods to be delivered.
- 5.8 Unless agreed, otherwise with us in individual supply contracts, the risk of accidental loss or accidental deterioration of the goods shall transfer to us upon proper and complete delivery at our designated place of delivery; in the case of cross-border deliveries (foreign trade), the respective valid Incoterms shall apply; if no individual agreement has been concluded, DD (Delivery Duty Paid) shall apply.

6 Delivery

The contracting party shall provide a delivery note for each consignment, which includes the following details: Elma's order number and item number, the exact description of the item and whether it is a partial delivery, sample, outstanding or full delivery. In case of initial sampling, the supplier shall submit test reports to us without being requested to do so. The supplier shall provide us with further documents upon request, in particular test and assessment reports, assembly and operating instructions, maintenance instructions, SPC evaluations and declarations of conformity according to the respectively relevant provisions.

7 Liability

The contracting party shall be liable for any form of contractual infringement in accordance with statutory provisions, unless otherwise stipulated in these General Conditions for Purchasing.

8 Warranty

- 8.1 The contracting party shall ensure that the delivery / performance is in accordance with the latest state of the art and complies with the regulations on technical safety, the relevant work and environmental protection legislation, the regulations and requirements of authorities and trade associations as well as the special contractual agreements. If deviations from regulations are necessary in individual cases, the contracting party must obtain our written consent. This shall not affect Elma's claims. If the contracting party has concerns about the manner in which Elma wishes the order to be executed, it must notify Elma in writing without delay.
- 8.2 Contractual specifications of a technical or other nature relating to deliveries or services to be rendered represent an agreed feature in each case. This also applies to descriptions of the scope of delivery and illustrations.
- 8.3 The contracting party undertakes to use environmentally-friendly products and processes for its deliveries / services as well as deliveries and ancillary services provided by third parties within the scope of what is economically and technically feasible. The contracting party is liable for the environmental compatibility of the delivered products and packaging materials and all consequential damage caused by the infringement of its statutory disposal obligations. At the request of Elma, the contracting party shall issue a quality certificate for the delivered goods.
- 8.4 In the case of the contracting party's deliveries, Elma restricts its inspection of incoming goods to the detection of obvious defects, such as the correct quantity and identity of the ordered contractual products and damage to the goods or packaging during transport. Any identified packaging damage shall be reported no later than 10 business days after delivery. In all other cases, the Elma shall check the delivered goods according to the circumstances as an inspection during manufacturing and shall report any identified defects immediately after their discovery. If, a defect in the delivered item is detected at a later date during the warranty period, this is to be reported to supplier by Elma immediately after its discovery.
- 8.5 Defective deliveries must be replaced without delay, with faultless deliveries and defective performances should be repeated without faults. In the case of design and construction defects, we are entitled to assert the rights provided for in Section 7 without delay.
- 8.6 Our written consent is required before rectification of defective deliveries or services. During the period when the object of delivery is not in our custody, the supplier shall bear the risk of accidental loss.
- 8.7 If the supplier does not remedy the defect, despite being granted a reasonable grace period, we may,

at our discretion, withdraw from the contract or reduce the fee and demand additional damages.

- 8.8 In urgent cases (in particular, if operational safety is put at risk or to prevent exceptionally high damages), for the removal of minor deficiencies and in the case of a delay in the removal of a defect, we are entitled, following prior written notification and upon expiry of an extended grace period appropriate in the situation, to remedy the defect at the expense of the supplier and any damages incurred as a result or have them remedied by a third party, in each case at the expense of the supplier. This also applies if the supplier delivers or furnishes the goods or services late and we are required to rectify any defects immediately in order to avoid delays to our own deliveries.
- 8.9 Warranty claims due to defective delivery become time-barred after 24 months, calculated from the transfer of risk. Warranty claims for defective spare parts and commercial goods, which are specifically designated as such in the contract, shall become time-barred after 24 months from commissioning or delivery to the customer, but at the latest three years after delivery to us. If delivered parts are inspected for defects or if defects in delivered parts need to be remedied and the parts cannot be put into operation, the warranty period shall be extended accordingly. In the case of parts, which are repaired or newly delivered, the aforementioned warranty limitation period shall commence upon termination of the repair or new delivery.
- 8.10 If it is our responsibility to inspect the delivery or service and report defects within the scope of commercial transactions, inspections and the notification of defects shall be made in due time if they occur no later than 10 working days after delivery. The notification of a defect which only becomes evident at a later date shall be made in due time if it occurs no later than 10 working days after discovery of the defect (cf. 201, 367 and 370 OR).
- 8.11 If the goods have a legal defect at the time of purchase by Elma, the contracting party shall release Elma from any existing claims by third parties. Warranty claims for legal defects shall be become time-barred after three years, commencing at the end of the year in which the claim arose and Elma had knowledge of the circumstances giving rise to the claim and the identity of the obligor, or would have become aware without gross negligence, without regard to the knowledge or grossly negligent ignorance in 10 years from the emergence of the claim.

9 Product liability

- 9.1 If claims are asserted against Elma due to the violation of official safety regulations or on the basis of domestic or foreign product liability regulations due to a defect in the product which is attributable to the goods supplied by the contracting party, Elma is entitled to demand compensation for any damages caused by the product delivered by the contracting party. This compensation also includes the cost of any required recalls. If a defect occurs in a component delivered by the contracting party, it shall be assumed that the fault has occurred exclusively

within the contracting party's area of responsibility.

- 9.2 The contracting party is obliged to carry out state-of-the-art quality assurance which is appropriate for the type and scope of the order, and shall provide evidence of this to Elma upon request. If Elma considers it necessary, the contracting party shall conclude an appropriate quality assurance agreement with Elma.

- 9.3 The contracting party shall insure itself against all risks arising from product liability, including the risk of recall, at an appropriate rate, and shall submit the insurance policy to Elma upon request for inspection.

10 Proprietary rights

- 10.1 The contracting party warrants that all deliveries are free of third-party rights and in particular that the delivery and use of the delivered items do not infringe patents, licenses or other rights of third parties anywhere in the world.
- 10.2 The contracting party indemnifies Elma and its customers against third-party claims resulting from any infringements of industrial property rights and shall bear all costs incurred by Elma in this regard.
- 10.3 Elma is entitled, at the expense of the contracting party, to authorize the use of the delivered goods and services by the authorized party, taking into account the due diligence of a regular merchant.

11 Tools, drawings and other documents

- 11.1 All execution documents, fixtures, tools, models etc. which are provided to the contracting party, shall remain our property and must be stored carefully for the duration of the execution of the contract at the expense of the contracting party. They must only be used for the contractually agreed purposes and are only to be made available to third parties to the contractually agreed extent.
- 11.2 Tools and other manufacturing materials must not be scrapped or made accessible to third parties, in particular for the purpose of manufacturing, without our written consent.
- 11.3 We reserve all rights to drawings and products made according to our specifications, in addition to all procedures developed by us.
- 11.4 The contracting party can only rely on the absence of necessary documents to be supplied by Elma if it has requested the documents in writing and has not received them within a reasonable period.

12 Commercial terms

Unless otherwise agreed, the interpretation of the commercial clauses shall be governed by the latest version of the Incoterms as defined by the International Chamber of Commerce.

13 Proof of origin, export restrictions

- 13.1 Any proof of origin requested by us shall be duly signed and submitted by the contracting party without delay, along with all the necessary information. The contracting party shall indemnify Elma from all additional claims, which result from inaccurate proof of origin.

13.2 The contracting party shall inform us if a delivery item is wholly or partly subject to export restrictions in accordance with the relevant foreign trade regulations (e.g. CH or EU foreign trade law).

14 Duty of confidentiality

The contracting parties undertake to treat as commercial secrets all commercial or technical details which are not public knowledge and which become known to them through the business relationship. All data, drawings, etc. provided to the contractual party by Elma must not be used, reproduced or made available to third parties for other purposes. If the order is not delivered or a final order is arranged, the contracting party is required to hand over all documents, including all duplicates, to Elma without being prompted to do so. Subcontractors are to be obligated accordingly.

15 Other provisions

15.1 In addition to the terms of the contract and these General Conditions for Purchasing, Swiss law applies to all legal relations between Elma and the contracting party, with the exclusion of foreign rights.

15.2 The place of performance for all deliveries and services as well as the court of jurisdiction for all disputes is the headquarters of Elma. Elma is also entitled to assert claims against the contracting party at its own general place of jurisdiction.

15.3 The provisions of the Vienna UN Convention on Contracts for the International Sale of Goods (CISG) of 11 April 1980 is not applicable.

15.4 The contracting party is not entitled to transfer the order or essential parts thereof to third parties without the prior written permission of Elma.

15.5 Elma shall keep the supplier's personal data confidential in accordance with the applicable data protection laws.

15.6 If a provision of these General Conditions for Purchasing are or become invalid or non-enforceable, this shall not affect the validity of the remaining provisions of these General Conditions for Purchasing. The parties agree to replace invalid or non-enforceable provisions with valid or enforceable provisions, which are most economically consistent with the objectives of the parties. The same applies in the event of a contractual loophole.

16 International export control regulations

The contracting party is obliged to report to us any restrictions or limitations relating to export control regulations, in particular US export control regulations, such as the Arms Export Control Act and the International Traffic in Arms Regulations (ITAR), as well as any restrictions applicable the goods to be delivered, information, data or services to be rendered, either in their original form or after incorporation into other structural components / systems. In particular, the contracting party shall notify us of any restrictions relating to the transfer or re-transfer of the goods to be delivered, the information, data or services to be rendered, and shall provide the purchaser with instructions about how to take the necessary steps

to comply with these provisions. The contracting parties shall cooperate with each other in order to comply with the export control regulations. Any breach of this provision despite a reasonable grace period constitutes good cause, which entitles us to immediately terminate the contract.

17 Anti-corruption provision

The contracting party and Elma are familiar with the United Nations Convention against Corruption, the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions of 21.11.1997 and the 2009 Anti-Bribery Recommendation and Good Practice Guidance, as well as relevant laws on fighting against bribery and unfair competition, according to the existing laws of their countries. The parties shall ensure that they comply with these provisions.

These General Conditions for Purchasing of Elma Electronic AG are available in German and English. In the event of any conflicts or contradictions between the German original or the translated English version, the German original shall prevail.

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