

General

HARTING Electronics GmbH & Co. KG, Espelkamp is the Supplier within the meaning of the following general business terms and conditions. These delivery conditions shall apply to deliveries to merchants (§§ 1 et seq. of the Commercial Code [Handelsgesetzbuch] and deliveries to entrepreneurs (§ 14 of the German Civil Code [Bürgerliches Gesetzbuch]); they shall also apply to deliveries to persons who must be treated by law as persons within the meaning of the foregoing sentence because they behave ostensibly as merchants and entrepreneurs.

I. General Conditions

1. The conclusion of a contract of sale and the scope of the delivery obligations contained therein shall depend on both contracting parties' submitting written declarations of intention. Notwithstanding the application of these Conditions of Sale and Delivery, where there are no written declarations of intention, only a written confirmation of order from the Supplier will be binding (assuming such written confirmation exists).
2. All current and future deliveries and services, including ancillary services, such as advisory services for customers, before and after the conclusion of contract, shall be based on the following conditions. The following conditions shall also apply to all legal acts whose aim is to modify the contract, in particular amendments to the contract or termination of the contract. We hereby reject the Buyer's purchase conditions. We shall not be bound by them even if we do not reject them again at the time of executing the contract. Our general delivery and payment conditions shall be deemed to apply at the latest at the time our goods are accepted.
3. Offers made by us shall be subject to confirmation. Contracts and agreements – in particular if they differ from our conditions – shall not be binding until we have confirmed them in writing. This shall also apply to waiving the requirement of writing.
4. These conditions shall also apply to sales made on the basis of trade terms, in particular the Incoterms. Where a sale is made on the basis of contractual wording contained in the Incoterms, the currently valid Incoterms of the International Chamber of Commerce in Paris shall be binding. The trading terms only apply, however, if no other provisions have been fixed in special agreements.

II. Scope and Duty of Delivery

1. The documents, diagrams, drawings and information on weights, which form part of the Supplier's offer, shall only be roughly reliable. The Supplier shall retain all its ownership and proprietary utilization rights in the price quotes, drawings and other documents. The documents may only be made available to third parties after the Supplier has given its prior written consent thereto. If the Supplier is not awarded the contract, the documents must be returned to it upon its request and the Customer is not allowed to retain copies.
2. In the case of goods manufactured to the Customer's specifications, the Customer shall have to accept differences of up to 10% more or less in the quantity ordered. This shall also apply to separate partial deliveries where partial deliveries of certain quantities have been agreed upon.

III. Price

1. Our prices only apply for deliveries of confirmed orders ex works without packaging unless something else has been agreed upon in writing. Where there are general changes to the cost price up to the date of delivery, the Supplier shall be entitled to adjust the price. Prices shall be in EURO issued by the European Central Bank and value added tax shall be added at the currently applicable rate unless expressly stipulated in a different manner.
2. Provided no contrary agreements are reached, samples will only be supplied at a charge.

IV. Retention of title

1. The Supplier shall retain title to the goods delivered until all payments arising from the contractual relationship with the Customer have been received. The retention of title extends to the account balance acknowledged if the Supplier books claims against the Customer to a current account (current account reservation).
2. In the event that the Customer breaches the contract, in particular if its payments are overdue, the Supplier shall be entitled to take back the goods delivered. In such a case, the Customer shall be obliged to surrender the goods. If the Supplier takes back the goods delivered, such action shall not amount to a rescission of the contract unless the Supplier expressly states this to be the case in writing. If attachment is levied against the goods or other encroachments on the goods are made by third parties, the Customer must inform the Supplier of the same in writing immediately so that the Supplier can initiate legal action, e.g. file a lawsuit, e.g. pursuant to § 771 of the Civil Code of Procedure (Zivilprozeßordnung). If the third party is unable to compensate the Supplier for court costs and extra-judicial costs, the Customer shall be liable to the Supplier for its losses.
3. The Customer shall be entitled to resell the goods delivered in the ordinary course of business. However, it herewith assigns to the Supplier its claims in the amount of the final invoice (i.e. value added tax is included) against purchasers or third parties which result from the resale. It shall be irrelevant whether or not the goods delivered are sold before or after they have been processed. The Customer shall be entitled to enforce the abovementioned claims even after they have been assigned. The Supplier's authority to enforce the claims itself shall remain unaffected hereby. The Customer agrees, however that it will not enforce the claims for as long as the Customer duly complies with its payment obligations and its payments are not overdue. If the Customer

is late in payment, the Supplier may demand that the Customer inform it immediately regarding the details of the assigned claims and the identity of its debtors, provide it with all details necessary for enforcing the claims, hand over all related documents and inform the debtors (third parties) of the assignment.

4. Any processing or transformation of the delivered goods by the Customer shall be deemed to be done on behalf of the Supplier. If the goods delivered are processed with other goods which do not belong to the Supplier, the Supplier shall acquire co-ownership rights in the new goods in the ratio the value of the goods delivered bears to the value of the processed goods at the time of processing. The same conditions apply to the goods created through processing as apply to the goods delivered subject to the retention of title clause.
5. If the goods delivered are inextricably combined or mixed with other goods not belonging to the Supplier, the Supplier shall acquire co-ownership rights in the combined or mixed goods in the ratio the value the goods delivered bears to the value of combined or mixed goods at the time of combining or mixing unless the process is considered "processing" within the meaning of clause 4. If the combining or mixing occurs in such a way that the Customer's product must be seen as the main product, the parties herewith agree that the Customer will transfer to the Supplier its ownership share. The Customer shall keep custody of the combined or mixed goods without remuneration.
6. The Customer also assigns to the Supplier its claims which secure the Supplier's claims against it, where the Customer acquires such claims vis-à-vis a third party through the combination of the goods with real estate.
7. The Supplier agrees to release the securities it is entitled to at the Customer's request, if the realizable value of the claims assigned to the Supplier exceeds the value of the secured claims by more than 10% or if the estimated value of the goods secured exceeds the value of the claims secured by more than 50%. The Supplier shall be able to choose which security it wishes to release.
8. If the Customer sells the goods on credit to a third party, with or without processing them, it shall be obliged to make such sale subject to its retention of title.
9. The Supplier shall be entitled to insure the goods against theft, breakage, fire, water and other damage at the Customer's expense unless the Customer supplies proof that it has arranged for such insurance itself.

V. Payment Conditions

1. Provided no agreements to the contrary have been made, payments without deductions for bank charges must be made to the Supplier's bank in accordance with the information on the order confirmation and on the Supplier's invoice. Interest for late payment will be charged at the usual bank interest rate for current accounts. The period allowed for payment shall commence on the date stated on the invoice. If the Customer is late in payment, the Supplier shall be entitled to demand payment of all payments owed to it, including payments due at a later date, unless the Customer is not responsible for the delay.
2. The Customer shall only be entitled to credit its claims against the Supplier's claims or refuse payment if its claims are non-appealable or uncontested.
3. Checks and bank transfers shall only be accepted on account of payment until they are validly cashed or credited. Bills of exchange shall only be accepted on account of payment if this has been agreed in advance. Discount charges and interest must be refunded to the Supplier. Payments shall be deemed to have been made on the day when the Supplier can freely dispose of the amount.
4. All claims arising from the business relationship shall become immediately due and payable if the Customer ceases payment or seeks to negotiate a settlement sum or seeks a temporary suspension of payments.

VI. Deadlines for Delivery

1. The deadline for a delivery shall begin on the day when there is written agreement regarding the order between the Customer and the Supplier. In order for the Supplier to meet a delivery deadline, the Customer must first have punctually supplied all documents, e.g. approvals and releases that it is required to supply. The Customer must also have first clarified and approved all plans and complied with the payment and other conditions for the delivery. The Supplier shall be liable for meeting delivery deadlines only if it has expressly agreed in writing to guarantee delivery on a certain date. If the Supplier does not meet delivery deadlines which it has not guaranteed, the delivery deadline will be extended for a reasonable period and the Supplier shall not be subject to a duty to pay damages.
2. Delivery deadlines must be met except where events occur for which the Supplier is not liable or could not foresee. In such cases, it is irrelevant whether the events occur at the Supplier's factory or at a factory of its sub-supplier. Events within the meaning of the foregoing sentence include force majeure, mobilization, war, uprisings, rejection of an important work material due to defects or other delays in transport for which the Supplier is not responsible, stoppages, strikes and lock-outs as well as – except where the Supplier is responsible for the same – late deliveries of essential raw materials and production material provided that these events can be shown to have a significant influence on the completion or delivery of the goods. The same shall apply where the Supplier is already liable for late delivery of the goods. Where any of the abovementioned events occur, the Supplier must notify the Customer of their occurrence as soon as possible. The deadline for delivery shall be extended by an appropriate length of time in the situations described in this clause 2.

If the Customer requests that shipment or delivery be later than the agreed delivery date, it will have to pay storage charges of .5 % of the invoice amount for each month of storage commenced. The maximum charge will, however, be a total of 5% of the invoice amount. The storage charge will begin one month after the Supplier gives notice that the goods are ready for shipment. Both parties shall be at liberty to show that the storage costs were higher or lower.

VII. Passing of Risk

1. The risk shall pass to the Customer at the latest when the goods are dispatched unless there is a statute which provides that it should pass at an earlier point in time. The same shall apply in respect of part deliveries or when the Supplier has undertaken to perform other duties, e.g. the payment of transportation costs, setting up costs or delivery. The Customer can request the Supplier to insure the shipment against theft, breakage, transport, fire or water damage or any other insurable risks at the Customer's expense.
2. If the Customer is responsible for a delay in shipment, the risk will pass to the Customer on the day the goods were ready for shipment. The Supplier shall be obliged, however, to arrange insurances at the Customer's request which the Customer has to pay for.

VIII. Acceptance, Absence of Warranties

1. The Customer must accept delivery of goods even if they show insignificant defects which do not affect their function.
2. The Supplier shall be permitted to make partial deliveries.
3. The Supplier gives no warranties except for those it makes expressly.

IX. Defects as to Quality

The Supplier shall be liable for defects as to quality as follows:

1. In respect of all goods or services and irrespective of how long they have been used, the Supplier must elect whether it will at no cost correct the defect or deliver new goods or perform new services. The defect must be apparent within the statutory time limitation period and the cause of the defect must have already existed at the time risk passed.
2. Defects as to quality shall generally become barred by the statute of limitations after 12 months. The foregoing shall not apply where longer limitation periods are prescribed by law pursuant to §§ 438 (1) No. 2, 479 (1) and 634a (1) No. 2 of the German Civil Code or in cases of injury to life, body or health or where the Supplier or its vicarious agent is guilty of an intentional or negligent breach of duty and where a defect has been fraudulently concealed. The statutory provisions on the suspension, interruption and recommencement of the running of time shall remain unaffected.
3. The Customer must notify defects as to quality to the Supplier in writing immediately.
4. Where the Customer has notified the Supplier of defects, it may retain payment. There must be a reasonable ratio between the amount retained and the value of the defects. The Customer shall only be entitled to retain payment if there is no doubt that the notification of defects is justified. If the notification of defects is unjustified, the Supplier shall be entitled to demand compensation from the Customer for expenses incurred by it.
5. The Customer must always allow the Supplier to first have an opportunity to correct defects within a reasonable time limit.
6. If the Supplier's attempt to correct the defects is unsuccessful, the Customer – irrespective of any rights to damages pursuant to Section X – may rescind the contract or reduce the remuneration payable.
7. The Customer shall not be entitled to claim that there are defects where there are only slight differences from the agreed characteristics, where there is natural wear and tear or in the case of damage which occurs after the passing of risk due to incorrect or careless treatment of the goods, the placing of excessive demands on the goods, unsuitable operating facilities or which occur due to other influences, which are not provided for in the contract or due to software errors which cannot be reproduced. If the way the Customer or a third party makes changes to the goods or repairs them is faulty, there shall be no right to claim damages for defects or consequential damages in respect of the consequences thereof.
8. The Customer shall have no claims for expenses which are necessary for remedying the defects, in particular for transport, traveling, labor and material costs, to the extent that the expenses increase because the goods delivered are subsequently taken to a location different to the Customer's premises except if the delivery is in conformity with the stipulated use.
9. The Customer shall only have rights of redress against the Supplier pursuant to § 478 of the German Civil Code (redress by an entrepreneur) insofar as the Customer has not made any agreements with its own purchaser which extend beyond the statutory claims for defects. Clause 8 shall apply accordingly in relationship to the scope of the Customer's right of redress against the Supplier pursuant to § 478 (2) of the German Civil Code.
10. Section X shall otherwise apply to claims for damages (Other Claims for Damages). Claims for defects as to quality by the Customer against the Supplier and its vicarious agents other than those covered in Section IX are excluded.

X. Other Claims for Damages

1. Claims for damages and reimbursement for expenses by the Customer (hereinafter referred to as damages claims), irrespective of the legal reason for them, in particular claims for a breach of contract or tort are – subject to clause 2 below – excluded.

2. The exclusion of liability contained in clause 1 shall not apply to claims for damages pursuant to the Product Liability Act (Produkthaftungsgesetz) in cases of gross negligence, injury to life, body or health or on account of material breaches of contract. Damages claims for material breaches of contract are, however, restricted to the usual foreseeable damage, unless a party has inflicted harm intentionally or through gross negligence or where a party is liable for injury to life, body or health. The aforementioned provision is not intended to reverse the balance of proof in a way which would be detrimental to the Customer's interests.
3. If the Customer has claims for damages under Section X hereof these shall become barred by the statute of limitations at the same time as claims for defects as to quality become statute barred pursuant to Section IX No. 2. The statutory limitation periods shall apply in the case of claims for damages pursuant to the Product Liability Act, cases of intentional harm, gross negligence, injury to life, body or health or the breach of material contractual duties.

XI. Costs for Special Tools

1. If the Customer requests the Supplier to make special tools or devices for models which are not produced serially, the Supplier will bill the Customer pro rata for the same separately. The Supplier may demand advance payment of the pro rata costs at the latest when the reference sample made by the special tool has been submitted. The Supplier may amortize the pro rata costs at a percentage of the net invoice amount which has been fixed in writing in an individual case.
2. Failure to exhaust amortization possibilities will not give rise to a claim against the Supplier for reimbursement of the unredeemed amortization amount.
3. The Supplier may bill the Customer in an appropriate fashion for costs incurred for repairs to, wear and tear and deformation of etc. the special tools.
4. The special tools and devices shall remain the property of the Supplier since their development remains its intellectual property and the pro rata costs do not cover the costs of design, construction, building, testing and maintenance.

XII. Impossibility, Adjustments to the Contract and Rescission by the Supplier in the Case of Certain Events

1. Insofar as delivery becomes impossible, the Customer shall be entitled to demand damages unless the Supplier is not responsible for delivery becoming impossible. Nonetheless, the Customer's claim for damages shall be restricted to the damages usually available for a breach of contract, i.e. to a maximum of 10 % of the value of the part of the delivery, which due to impossibility cannot be put into operation in the intended manner, or in cases of total impossibility, to a maximum of 10 % of the value of the total delivery. The above limitation shall not apply where the Supplier's liability is mandatory under the Product Liability Act, in cases of intentional harm, gross negligence or injury to life, body or health. The aforementioned provision is not intended to reverse the balance of proof to the detriment of the Customer. The Customer's right to rescind the contract shall remain unaffected hereby. If the Customer rescinds the contract, it shall not be able to demand damages instead of performance.
2. If force majeure (e.g. mobilization, war, uprisings, strikes or lock-out) changes the economic significance or the content of the delivery considerably or have a considerable effect on the Supplier's operations, the contract shall be adjusted applying the principles of good faith. If an adjustment is not economically justified, the Supplier shall be entitled to rescind the contract. If the Supplier wishes to make use of its right to rescind, it must inform the Customer as soon as it knows the scope of the event, and even in circumstances when initially an extension of the delivery deadline was agreed with the Customer.

XIII. Place of Performance, Jurisdiction, Choice of Law

1. The place of performance for all deliveries, including return deliveries and payments shall be Espelkamp.
2. Where the Customer is a merchant, legal person under public law or a special fund under public law, legal action in respect of all disputes arising under the contract must be commenced at the court which is competent for the Supplier's principal place of business or the branch office supplying the delivery.
3. German law shall apply to the legal relationships connected with this contract. Conflict of law rules and the United Nations Convention on Contracts for the International Sale of Goods (CISG) shall be excluded.

XIV. Arbitration Court

1. If the parties agree to refer a dispute to arbitration, each party must nominate an arbitrator with four weeks' of the other party's request to do so. The umpire of the court of arbitration shall be appointed by the competent Higher Regional Court (Oberlandesgericht) in accordance with the Code of Civil Procedure (Zivilprozessordnung). The President of the Higher Regional Court shall also appoint the arbitrator for a party which is liable for delay in appointing one.
2. The court of arbitration must reach its decision on the basis of the agreed delivery conditions. Furthermore, §§ 1025 et seq. of the Civil Code of Procedure shall apply to arbitration proceedings.

XV. Exclusion of Assignments

The Customer's claims under the contract may not be assigned.