



# ELKOMIT

The Association of Suppliers of Electronic Instruments and Components

## ELKOMIT RY CONDITIONS OF DELIVERY

### 1. SCOPE OF APPLICATION

These conditions of delivery are applied in the trade between sellers and purchasers of components and equipment in which installation is not included, unless otherwise agreed to in a written contract. These conditions are not applicable to agent trade wherein the manufacturer's conditions of sale are applicable.

### 2. OFFER OF GOODS

The seller's Offer of Goods is binding and in effect for 30 days from the day the offer was made, unless otherwise agreed upon.

Provided the vendor's Offer of Goods is tendered under intermediary terms and conditions of sale, and immediate in-stock offer is signified whereby the stock may be offered for sale to a third party during the period the offer is valid and the vendor may not be able to guarantee the adequacy of inventories.

### 3. CONTRACT OF SALE

A Contract of Sale is deemed to have been established when:

- the parties have signed a written contract (Contract of Acquisition);
- the purchaser has approved a binding Offer of Goods (Order of Goods) in writing; or
- the seller has confirmed in writing an Order of Goods, which is not based on an Offer of Goods, or has confirmed an Order of Goods which is different in substance from the terms thereof (Confirmation of Order).

### 4. GRAPHS AND DESCRIPTIONS

#### 4.1

All information on price, measurement, weight, and performance presented in the descriptions, figures, circular letters, lists, and price lists, shall be submitted without obligations, unless it is explicitly referred to in the Offer of Goods.

#### 4.2

All technical graphs and documents pertinent to the manufacturing of the goods, or components thereof, which one party has provided to the other party prior to, or after the signing of the Contract of sale, shall remain the property of the provider. The receiving party may not, without the providers consent,

use, copy, duplicate, surrender or divulge by other means said information to a third party.

## 5. CONDITIONS OF DELIVERY

Unless otherwise agreed, the INCOTERMS Conditions shall be followed.

## 6. PACKAGING OF GOODS

The prices cited in the price-lists and catalogues are applicable for unpacked goods..

## 7. TIME OF DELIVERY

### 7.1

Unless the time of delivery has been separately agreed upon, the supplier may set the time of delivery except in instances set out under Clause 7.4.

### 7.2

Unless otherwise agreed, the delivery time is considered in effect at the time which is the latest of the following:

- a. The date of the signing of the Contract of Sale;
- b. The date when the seller is informed of the issuance of a valid import license, or manufacturer's export license, or the issuance of permission by officials of the pertinent country of origin, or the appropriate Finnish officials, whenever such a license is required;
- c. The date the seller receives payment as agreed upon in the Contract of Sale. Payment must be made before the commencement of the manufacture of goods.

### 7.3

Unless otherwise agreed, the delivery time expires when the goods leave the seller's storage facility or when the seller communicates that the goods are ready for delivery.

### 7.4

In a loosely agreed upon delivery time (i.e. approximately three (3) months), a deviation of plus or minus one-third of the delivery time is allowed. Both parties are, after two-thirds of the agree delivery time has expired, entitled to request in writing that the other party agree upon a certain definite time of delivery. If not time of delivery is agreed upon, both parties are, after six months from the establishment of the Contract of Sale, entitled to proceed in the aforementioned manner.

### 7.5

After having received knowledge of a delay, the seller is obligated to inform the purchaser of the delay, its cause, and an estimated new date of delivery.

### 7.6

In case of a delay in delivery, the vendor is subject, upon demand by the purchaser, to pay the purchaser for direct damage demonstrated by the purchaser. Unless otherwise agreed, the maximum compensated amount shall be 0.5% of the VAT-exempt value of the delayed lot for each full week following the date of delivery. The compensation shall not, however, exceed 6.0% of the VAT-exempt value of the delayed lot.

## 8. DELIVERY AND RECIVING OF GOODS

### 8.1

Unless otherwise agreed, the goods are deemed as having been delivered when turned over to a freight carrier for forwarding to the purchaser. When, according to the terms of the contract, the purchaser has to collect the goods from the vendor or from a place designated to the vendor, the merchandise is deemed surrendered when the vendor has notified the purchaser that the goods are ready for delivery.

### 8.2

The purchaser has no right to refuse to receive a partial delivery of goods, unless otherwise agreed in writing.

## 8.3

A bill of consignment (packing list) must be included with the goods. On acceptance of the goods, the purchaser must insure that the delivery tallies with the bill of consignment and must duly ascertain that the merchandise is undamaged. Before utilising, connecting, or installing the goods, the purchaser is again under obligation to properly inspect the merchandise.

## **9. FORCE MAJEURE AND INSURMOUNTABLE DIFFICULTIES**

The vendor is not obligated to fulfil the Contract of Sale if an Act of God, acts of public authorities, fire, machinery damage or a comparable disturbance, strike, lockout, war, mobilisation, embargo on exports or imports, lack of transport equipment, cessation of manufacture, interruption of traffic or other impediment beyond the vendor's control prevents the delivery of goods. Moreover, if fulfilling the Contract of Sale would call for sacrifices that are unreasonable in comparison with the advantage to the buyer, the vendor is not obligated to fulfil the Contract of Sale. If the aforementioned obstacle or disparity ceases to exist within a reasonable period of time, the purchaser has the right to request that the vendor fulfil the Contract of Sale.

When completion of the contract within a reasonable period of time becomes impossible due to the points set forth herein, either party is entitled to dissolve the contract with no obligation for compensation by notifying the other party of their intentions in writing.

## **10. PRICE**

## 10.1

The price cited in the Offer of Goods is the net price as per specified unit of the agreed

amount, excluding Value Added Tax (VAT), from the seller's stock.

## 10.2

If there are changes in customs, freight charges, Value Added Tax, or other general costs concerning delivery prior to the date of delivery, the seller has a right to adjust the price of the goods in as much as said changes in prices or additional costs have affected the price of the goods.

## 10.3

If the price of delivery agreed upon in the Contract of Sale requires adjustment due to cessation of obstacles as specified in Section 9, and in case it would be unreasonable to require the seller or the purchaser to use the price agreed upon in the Contract of Sale, the seller has the right and responsibility to adjust the retail price in relation to cost due to an obstacle specified in Section 9.

## **11. CURRENCY CONDITIONS**

## 11.1

When there are fluctuations in the rates of exchange affecting the price, the seller has the right to adjust in proportion the part of the price in Euros which he has not received from the buyer at least one workday before the change in the exchange rate became effective. In this context a workday is any day when Finnish banks sell foreign currency.

When there are changes in the exchange rates, a comparison is made between the rates of exchange on payment day and date of offer. In case a different rate of exchange has been agreed after the date of the offer, it will be used instead of the rate of exchange of the date of the offer.

In case the rate of exchange changes after the maturity date of the invoice, and payment is still due, the price in Euros cannot be less than it would be if based on the exchange rate of the maturity date.

## 11.2

If the exchange rate declines prior to the date of payment for the goods, the purchaser has a right to claim compensation in relation to the decline in the exchange rate. A purchaser who fails to meet the final payment date forfeits the aforementioned right.

## 11.3

If changes in the exchange rate are less than plus or minus two percent (+/-2%), neither party is entitled to price adjustments.

## 11.4

The seller is obligated to make any claims for price adjustment no later than one month from the date of receipt of payment. The purchaser is obligated to make any claims for price adjustment no later than one month from the payment (Invoice) date of maturity. Otherwise, the right to price adjustment is forfeited.

## 12. PAYMENT

## 12.1

Payment period starts from the date of the invoice. In case a payment is delayed, the purchaser is obligated to pay compensation to the seller according to his/her rate of interest, and the expenses arising from collection of payment.

## 12.2

If the purchaser has not settled payment within a reasonable period of time after maturity date, the seller is entitled to dissolve the Contract by written notice and to receive damages from the purchaser, but not for more than the value of the unpaid part of the delivery, in addition to any interest on the overdue amount plus costs for any possible expenses incurred in the collection of said payment.

## 12.3

If the purchaser fails to follow the agreed payment schedule or to settle any other overdue payments of the buyer, the seller has

the right, after notifying the purchaser in writing, to delay subsequent deliveries until any and all overdue payments have been settled or acceptable collateral has been agreed upon.

As a result of this delay, the agreed delivery time is thereby considered to have been postponed and the purchaser forfeits any right to claim for damages from the seller or to cancel the Order of Goods.

## 12.4

If the purchaser for reasons other than those specified in Section 9 neglects to receive the ordered goods on the agreed date, he/she is still liable for settlement of every payment that is made dependent on delivery as if said goods had been delivered. The seller is obligated to store the goods at the purchaser's responsibility and expense, after notifying the purchaser. Upon request by the purchaser, the seller is obligated to insure the goods at the purchaser's expense.

## 13. WARRANTY

## 13.1

A manufacturer's warranty, if issued, is effective on the goods. The warranty becomes effective on the day of delivery, or if the price includes installation, from the time installation included in the contract is completed. If the installation is delayed by more than 30 days due to circumstances caused by the purchaser, the warranty becomes effective on the 31st day after delivery.

## 13.2

If a defect in raw materials or a fault in production is detected, the seller is obligated (in a case where the goods were sent to seller without delay or before expiration of the warranty) to repair the defect at his/her discretion, or to deliver free of charge to the purchaser new replacement goods. The transportation costs of goods under warranty are to be paid by the purchaser, while costs incurred in returning goods are to be paid by the seller.

## 13.3

The warranty does not include damage caused by accident, lightning, flood or any other natural disaster, normal wear and tear, improper or careless handling, abnormal use, overloading, improper care, reconstruction or changes and installation work that are not made by the seller, or his/her authorised representative. The selection of materials for equipment and devices that are prone to corrosion is the purchaser's responsibility unless other lawful agreements were made.

## 13.4

If a manufacturer alters the structure of the equipment, the seller is not obligated to make comparable changes to equipment that has already been purchased.

## 13.5

A valid warranty claim requires that the purchaser has on his/her behalf properly fulfilled the obligations stipulated in the purchase agreement.

## 13.6

For goods that have been repaired or restored within the warranty period, the seller grants a continuation of the warranty, but only to the date of expiration on the original warranty.

## 13.7

In regard to restoring or repairing equipment after the expiration of the warranty period, the seller provides a three-month (3) service warranty including the materials and workmanship on said repairs.

## 14. COMPLAINTS

Complaints regarding either the amount of goods or the validity of the consignment must be made in writing within eight (8) working

days from the date of delivery, with the understanding that the purchaser otherwise forfeits any right to claim for defective or deficient merchandise.

Claims related to faulty goods must be submitted in writing within 30 days from the delivery. Claims related to a delayed delivery must be submitted in writing within 30 days from the end of the delay.

## 15. OBLIGATIONS OF THE SELLER

The buyer is not entitled to any compensation from the seller for neither direct nor indirect damages caused by defected goods including damages to people, goods, or property, including damages caused to other parts in the seller's consignment.

The seller is not obliged to compensate costs caused by replacement of defected good such as communication expenses, travel expenses, meeting expenses, replacement expenses, installation expenses and work time.

Seller's liability for delay and defects is limited to the sanctions defined in clauses 7 (Time of delivery) and 13 (Warranty). The buyer is not entitled to compensation from the seller for any consequential damages.

If a manufacturer or anyone, from whom the Seller purchases the goods, has not fulfilled his agreement obligations, and the delivery by the Seller is delayed or fails due to this, the Seller shall not be obliged to compensate the damage possibly incurred by the Buyer due to this.

## 16. LIMITATIONS OF LIABILITY

The party that claims a breach of contract by the other party is obligated to undertake all necessary measures to restrict damage insofar as he/she is able to do without incurring any unreasonable expenses or difficulties.

## 17. RETURN OF GOODS

A Contract of Sale is binding and non-negotiable and the seller is not obligated to accept an unsolicited return of goods. Goods

delivered as per the contract are accepted and the invoice is reimbursed only on the condition that the seller has, prior to said return, expressly accepted the return and agreed upon the amount of reimbursement.. Returned goods may be accepted and the value thereof reimbursed only in original package and condition.

## **18. TRANSFER OF OWNERSHIP**

Ownership of goods is transferred to the purchaser upon payment of the entire price, unless otherwise agreed separately. The contract of sale will expire, and the seller has a right to retrieve the delivered goods if the petition for bankruptcy is made on the purchaser or the purchaser is not following what has been agreed on the payment of the delivery.

## **19. ANNOUNCEMENTS**

The sender is responsible for the reception of notice of arrival at the receiving party.

## **20. RESPONSIBILITY FOR RECYCLING**

For the delivered goods the purchaser shall be liable for the obligations set for the producer (seller) in the EU directive 2002/96/EC/27.1.2003 (WEEE), in the Waste Act (1072/1993) and in the Government Decree (852/2004). Replacing directives and regulations 2011/65/EU ja 2012/19/EU shall apply without prior notice.

## **21. RESTRICTED SUBSTANCES**

Products shall be in compliance of all regulations on substances in articles following all applicable regulations in EU and Finland. Restrictions on the manufacture, placing on the market and use of certain dangerous substances preparations and articles can alter without prior notice.

Directive 2011/65/EU of the European Parliament and of the COUNCIL and REACH regulation Annex XVII on the restriction of the use of certain hazardous substances in all products and in electrical and electronic

equipment shall apply including exempted uses from the restrictions and restricted substances in articles. These exemptions of the directive and restrictions in the annex of the regulation may alter and it is purchasers and seller's obligation to be aware of these exemptions.

## **22. Duty to communicate information of Substances**

Substance of very high concern hereinafter referred to as SVHC refers to a substance meeting the criteria in Article 57 of the European Community Regulation on chemicals and their safe use (EC 1907/2006) and identified in accordance with Article 59(1) of in a concentration above 0,1 % weight by weight (w/w). List of such substances as of 1.3.2009 are in annex of these conditions.

Supplier of a product containing a substance of very high concern in a concentration above 0,1 % weight by weight (w/w), shall provide the recipient of the product with sufficient information, available to the supplier, to allow safe use of the product including, as a minimum, the name of the substance, CAS-number (Chemical Abstract Service), weight of the substance in a product, weight of a product and purpose of the substance. The relevant information shall be provided, free of charge

List of substances of very high concern published according to regulation (EC 1907/2006) can alter without prior notice. Duty to communicate shall cover also those Substances of very high concern defined in paragraph 2 that has been put on the list after assignment of these conditions.

Products shall be in conformity of all regulations and standards on product safety applicable in EU and Finland.

## **23. DISPUTES**

Primarily the parties to the contract should settle disagreements concerning contracts and regulations thereof. The laws of republic

of Finland shall govern these conditions of delivery. In case a settlement cannot be reached, the matters in dispute shall be

resolved in the lower court in the seller's home of origin in Finland.