

General Terms and Conditions of Würth Elektronik ICS Group

Last update February 2010

(This is a translation of the German version. In cases of doubt, the German version shall prevail.)



1. Scope

1.1 Würth Elektronik ICS GmbH & Co. KG, Würth Elektronik FLATcomp Systems GmbH & Co. KG and imt engineering GmbH (hereinafter "Würth Elektronik") provide all goods and services solely in accordance with the following General Terms and Conditions. Any deviating terms and conditions of the customer shall apply only if Würth Elektronik expressly and in writing consents to such terms and conditions.

1.2 The following terms and conditions shall apply to consumers and merchants, if the contract is used within a commerce, legal entities or special funds under public law.

1.3 All information stated on websites, in brochures, advertisements and non-binding offers shall constitute an invitation to the customer to submit a binding order. An order shall be accepted by written confirmation of order or by delivery of goods or by rendering of services.

1.4 Würth Elektronik shall remain entitled to all the rights, particularly proprietary rights and copyrights, as well as the right of utilization, duplication and distribution, with respect to any specifications, plans, drawings, other documentation or material submitted in connection with the bid. Whether and to what degree the customer acquires proprietary rights and rights of use or publication with respect thereto depends on any contractual agreement that he may enter into.

1.5 Execution of orders following receipt of customer documents to be submitted shall be subject to the approval of such documents by Würth Elektronik.

1.6 Agreements entered into shall bind the customer to accept and pay for goods and services ordered.

2. Pricing, payment, set-off

2.1 The price agreed upon shall prevail. Unless stated otherwise, the prices quoted to consumers shall be deemed gross prices pursuant to s. 13 BGB (German Civil Code) (incl. statutory value added tax) and prices quoted to companies shall be deemed net prices pursuant to s. 14 BGB (plus statutory value added tax). Packaging, shipping and insurance costs as well as any other ancillary costs shall be remunerated separately. If the customer is a consumer, he shall bear such costs only if they are reasonably proportional to the value of the item to be delivered.

2.2 As for goods or services that are not to be supplied within four months of entering into an agreement, Würth Elektronik shall be entitled to adjust the price in the intervening time period due to increases in wages or material costs. The same shall apply, independent of the period in which goods or services shall be supplied, to goods and services that are supplied or rendered as part of a recurring obligation. If Würth Elektronik has agreed on prices contingent on certain pricing factors, such as prices for raw material, with customers, changes in such price factors may result in corresponding price adjustments independent of the period for delivery and performance.

2.3 Unless other agreements have been made payments are due net within 15 days of invoice date. However, Würth Elektronik may arrange with the customer for instalment payments or prepayment if there has been no prior business relationship with such customer, shipments are made abroad, the customer's place of business is abroad, or if

there are any other reasons that give rise to doubts as to the customer's timely payment upon delivery. Payment shall be deemed effected on such date as Würth Elektronik attains control over the amount owed. In the case of payment by cheque, payment shall be deemed effected if the cheque is cleared and credited to Würth Elektronik within a reasonable period of time.

2.4 In the event of default, Würth Elektronik shall be entitled to charge late-payment interest in the amount of 5 percentage points above the base rate for consumers and 8 percentage points above the base rate for companies. Its right to assert claims for further damages, particularly as concerns higher interest rates, on other legal grounds shall remain intact.

2.5 If, upon entering into a contract, the asset situation of the customer deteriorates substantially or if such deterioration becomes noticeable upon entering into a contract, thus putting at risk Würth Elektronik's claims for payment, Würth Elektronik shall be entitled to suspend the further execution of the contract until the customer provides consideration or offers security. If the customer defaults on payments, all claims against him, regardless of whether they have been invoiced or not, will fall due immediately unless the default was not his fault.

2.6 Payments of the customer will always be set off against receivables already due, as per sections 366, para. 2, 367 BGB (German Civil Code), unless the customer makes other dispositions. The customer shall not be entitled to set off payment against any claims other than claims that are uncontested or confirmed by declaratory judgment.

3. Schedule and deadlines

3.1 In the absence of any agreement to the contrary, deliveries to be made by Würth Elektronik shall be obligations to deliver goods; they shall be deemed fulfilled at the time that the goods are handed to the shipper at the place of business or at a warehouse of Würth Elektronik.

3.2 Commencement of the delivery and completion periods agreed upon and/or compliance with the deadlines and schedule agreed upon shall be subject to the necessary technical details having been clarified in advance. This shall apply, in particular, to the customer's duties to cooperate. In the event of non-compliance with the schedule agreed upon, the customer shall grant Würth Elektronik a reasonable grace period for providing the goods and/or services thus owed. Grace periods shall be set out in writing.

3.3 In cases of force majeure, industrial action and similar circumstances beyond the control of Würth Elektronik, the performance period of Würth Elektronik shall be extended by the duration of such events. If such events last longer than three months, either party may withdraw from the contract. Any effectively created and statutory rights of rescission shall remain intact. Würth Elektronik shall not be liable for delays in performance due to events beyond the control of Würth Elektronik and shall not be liable for any expenditure or damage resulting therefrom.

3.4 Subsequent modifications or additions to the contract introduced by the customer and agreed between him and Würth Elektronik shall cause schedules and deadlines already agreed upon to be extended accordingly. Preparations for deliveries including notices of imminent shipping

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as well as the organisation of other agreed measures to fulfil the contract shall be carried out, as a matter of principle, on business days during customary business hours.

3.5 Würth Elektronik shall be entitled to make reasonable partial deliveries or render partial services. Early deliveries of goods or performance of services shall be permitted in the absence of express provisions to the contrary.

3.6 If the customer defaults in acceptance, Würth Elektronik may demand reimbursement for customary storage costs as well as reimbursement for any other additional expenses in connection with the storage and maintenance of the item(s) to be delivered. In addition, the risk for any accidental loss or accidental deterioration of the goods shall pass to the customer at the time that he fails to accept delivery. If the default in acceptance also constitutes a debtor's default at the same time, Würth Elektronik shall be entitled to compensation for any damage caused to it as a result. Further statutory claims of Würth Elektronik shall remain intact.

3.7 If Würth Elektronik fails to deliver, it shall be liable to such extent as is provided for under 7.

4. Retention of title, rescission

4.1 Würth Elektronik shall retain title to all goods until such time as payment has been made in full. If the goods and/or services supplied by Würth Elektronik include software, a revocable licence for such software will be granted until the time payment is made in full.

4.2 Prior to the full passing of title, the item(s) shall not be pledged, transferred as security, processed or modified without the express consent of Würth Elektronik. The customer shall notify Würth Elektronik immediately if any third party asserts claims to the goods.

4.3 In the event of conduct by the customer that contravenes the contract, particularly in the event of default in payment, Würth Elektronik shall be entitled, within the scope of the law, to rescind the contract, demand the return of the privileged property and use it for other purposes. In the event of rescission Würth Elektronik shall be entitled to withdraw from the customer the revocable licence for software under 4.1.

4.4 If the customer is an entrepreneur pursuant to s. 14 BGB (German Civil Code), he shall be entitled to sell the goods in the ordinary course of business; he shall, however, herewith assign to Würth Elektronik all claims against his customers or a third party in the amount of the final amount charged to him by Würth Elektronik (including value added tax) that may arise for him from his sales. The customer may collect on such claims even after the assignment. The right of Würth Elektronik to collect on such claims shall remain intact. However, Würth Elektronik shall undertake not to collect on claims as long as the customer continues to meet his payment obligations from his receipts and does not default in payment and provided that no composition or insolvency proceedings have been instigated and that there is no cessation of payment. But if this is the case, Würth Elektronik may demand that the customer disclose the claims assigned and their debtors, hand over to Würth Elektronik all necessary information concerning collection and notify his debtors of such assignment.

4.5 In the event that the property right of Würth Elektronik with respect to the goods delivered and subject to retention

of title expires due to combination (e.g., by assembly), the (shared) property right of the customer with respect to the undivided object shall pass to Würth Elektronik in proportion to the invoiced value of the privileged goods and will be stored by the customer at no charge.

4.6 Würth Elektronik undertakes to release the securities at the request of the customer to such extent as their realisable value exceeds the claims to be secured by more than 10 per cent.

5. Special duties of the customer to co-operate

5.1 If the performance of services agreed upon requires the co-operation and/or participation of the customer, the customer shall ensure that Würth Elektronik receive all necessary and relevant information and data in a timely manner as well as of the requisite quality. As concerns programming work, the customer shall provide Würth Elektronik with the necessary computing capacity, test data and data acquisition capacities in a timely as well as sufficient manner.

5.2 If the customer fails to fulfil his duties to co-operate in full, in part or in a timely manner, the performance period of Würth Elektronik shall be extended accordingly until such time as the customer meets his duties to co-operate. Furthermore the customer shall reimburse Würth Elektronik for any expenses and damage caused by his failure to co-operate, unless such failure to co-operate was due to circumstances beyond his control.

6. Rights of complaint

6.1 Würth Elektronik manufactures its products to state-of-the-art standards in effect at the time a contract is entered into. Any use intended by the customer that goes beyond the customary use of such products or that requires a level of quality that deviates from the norm, particularly applications relevant to security engineering, e.g., use in the aerospace or automotive industries, shall be agreed on by contract.

6.2 Warranty claims of the customer against Würth Elektronik shall be subject to the following provisions as well as statutory provisions.

6.3 Normal wear and tear typical of consuming shall not constitute cause for a complaint. The customer shall comply with the recommendations of Würth Elektronik and/or the manufacturer regarding operation, storage and/or maintenance. Only authorised changes shall be made; technically appropriate replacement parts and consumables shall be used and shall correspond to the relevant specifications. If the customer violates any of these obligations and thus causes, directly or indirectly, defects, Würth Elektronik shall not accept any liability.

6.4 If a complaint is made, the customer shall describe the symptoms of the defect in written and detailed form to Würth Elektronik or, if so ordered by Würth Elektronik, provide defective devices or parts for the purposes of testing and subsequent performance. If the customer is an entrepreneur under s. 14 BGB (German Civil Code), the duty to examine and to report defects pursuant to s. 377 HGB (German Commercial Code) shall remain intact.

6.5 In the event of a defect, the customer shall grant Würth Elektronik a reasonable period of time for subsequent improvement. Würth Elektronik reserves the right to effect subsequent performance, at its discretion, by subsequent

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improvement or subsequent delivery. If subsequent performance fails or is unreasonable from the point of view of the customer, the customer shall be entitled to withdraw from the contract or demand that the purchase price be reduced. Withdrawal shall be excluded if Würth Elektronik's breach of duty is merely insubstantial.

6.6 Warranty claims shall be subject, from the time the risk is passed, to a limitation period of 24 months in the case of deliveries to consumers and 12 months in the case of deliveries to companies. Work performed shall be subject, from the time of acceptance, to a period of 12 months for companies and 24 months for consumers. The aforementioned limitation periods shall not apply to recourse claims under sections 478, 479 BGB (German Civil Code) in the case of fraudulently concealed defects as well as to claims for damages under 7.4 to 7.6, which shall be subject to statutory limitation periods.

6.7 Separate guarantees of Würth Elektronik shall not be affected by the aforementioned warranty provisions.

6.8 Parts replaced in the course of subsequent improvement or subsequent delivery shall pass into the property of Würth Elektronik and shall be returned by the customer at the request and expense of Würth Elektronik.

6.9 If it is determined that Würth Elektronik provides services due to defects alleged by the customer, without there actually being a case for warranty, the customer shall reimburse Würth Elektronik for the resulting expenditure unless the customer is not responsible for such allegation of defect.

6.10 Claims for damages related to warranty issues shall also be subject to the provisions under 7.

7. Liability

7.1 Würth Elektronik shall not be liable for damage for which Würth Elektronik is not responsible, particularly damage that is caused by the improper use or handling of the products. The customer shall comply with the recommendations of Würth Elektronik and/or the manufacturer regarding operation, storage and maintenance, shall make only authorised changes, shall change replacement parts in a proper and expert manner and shall use only consumables that comply with the relevant specifications. Both prior to and after receiving goods and services from Würth Elektronik, the customer shall back up the data on his computer systems at sufficiently regular intervals. Würth Elektronik shall not accept any liability for damages caused by or resulting from the customer's breach of the aforementioned obligations.

7.2 Regardless of the legal grounds, Würth Elektronik shall not be liable for direct or indirect damages caused by minor negligence on the part of Würth Elektronik or its vicarious agents.

7.3 The qualification under 7.2 shall not be applicable if Würth Elektronik or its vicarious agents violate a substantial contractual duty. In such case, however, the liability of Würth Elektronik shall be limited to typical damages and damages foreseeable at the time the contract is entered into.

7.4 The qualification under 7.2 shall not be applicable to breaches of obligations of Würth Elektronik or its vicarious agents that result in injury to life, limb or body.

7.5 The qualification under 7.2 shall not be applicable to mandatory liability provisions under the law, such as the Product Liability Act.

7.6 Würth Elektronik shall have unlimited liability for breaches caused by gross or intentional negligence.

7.7 The statutory limitation periods shall apply.

7.8 The aforementioned liability limitations shall also apply in favour of bodies, employees and vicarious agents of Würth Elektronik regarding any personal liability.

8. Licence rights for software, proprietary rights of a third party

8.1 All rights to software that is delivered to the customer or that is created for the customer, particularly copyrights, ancillary copyrights and neighbouring rights shall remain with Würth Elektronik and/or the respective rights holders. This shall also apply if the software was created according to the specifications of the customer or with the participation of the customer.

8.2 If Würth Elektronik uses software of the customer, all copyrights and other rights shall remain with the customer. Würth Elektronik shall use such software only for such purposes as are agreed by contract. If Würth Elektronik requires the source code of such software to make modifications or repair defects, the customer shall provide the source code to Würth Elektronik free of charge.

8.3 The customer shall be prohibited from duplicating, distributing, passing on, modifying, translating, expanding and/or making any other changes to the software supplied by Würth Elektronik as well as from decompiling or using the software as a basis for developing similar software unless such actions are permitted under the contract or the law in express terms. Otherwise the respective and specific terms and conditions of the software licence shall apply.

8.4 The customer shall be granted only a non-exclusive licence for the software to such extent as is required or permitted with respect to the purpose of the contract. Any use of the software that exceeds the respective terms and conditions of licence of the manufacturer and/or Würth Elektronik, collateral agreements or contractually agreed purposes shall be subject to the written consent of Würth Elektronik.

8.5 For the purposes of data backup, the customer may create the necessary backup copies unless the respective licence agreement contains provisions to the contrary. Backup copies on portable data carriers shall be identified as such and shall be affixed with the copyright notice of the original data carrier.

8.6 Würth Elektronik, and, if applicable, the manufacturer of the software, reserve(s) the right to assert claims for damages for each case of unlawful use that exceeds the terms and conditions of the non-exclusive licence.

8.7 If a third party brings a claim that is in conflict with the non-exclusive licence of the customer, the customer shall notify Würth Elektronik thereof in writing immediately. The customer shall not acknowledge any claims of a third party without the consent of Würth Elektronik. Würth Elektronik will defend against the claims of a third party.

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9. Data protection, confidentiality

9.1 The customer is instructed by Würth Elektronik that the data collected in the course of entering into the contract may be collected, processed and used by Würth Elektronik in accordance with the provisions of Germany's Federal Data Protection Act (BDSG) for the purpose of fulfilling its obligations under the contracts entered into with the customer. Such data may also be transmitted to affiliated companies of Würth Elektronik or vicarious agents for the purposes of fulfilling the contract and for credit investigations.

9.2 The contracting parties undertake to keep confidential any and all commercial and technical information of the respective other party that they obtain or learn in the course of executing the contract provided that the respective other party has not disclosed such information publicly.

10. Jurisdiction, place of performance, applicable law

10.1 If the customer is a merchant, a legal entity or a special fund under public law, the following shall apply: Jurisdiction over any legal disputes shall lie with the competent court at the business domicile of Würth Elektronik. However, Würth Elektronik may also bring legal action against the customer before a court in the customer's general jurisdiction.

10.2 The place of performance for deliveries and payments shall be the business domicile of Würth Elektronik.

10.3 The contract shall be governed by the laws of the Federal Republic of Germany. The United Nations Convention on Contracts for the International Sale of Goods (CISG) dated 11 April 1980 shall be excluded.

Environmental Declaration

Würth Elektronik is committed to people and the environment. Therefore, we undertake to manufacture our products in a manner that conserves resources, and to systematically realise any potential for saving energy in manufacturing processes and in transportation. We pay close attention to ecological alternatives as concerns the selection of sources of energy and raw materials and pursue a consistent policy of waste reduction and product recycling.

These General Terms and Conditions shall apply to the following companies:

Würth Elektronik ICS GmbH & Co. KG

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