

**General conditions of purchasing and order („AEB“)  
from E.I.S. Electronics GmbH („EIS“)  
effective from August 4th, 2016**

## **1. General**

1.1 All the orders placed by EIS are subject to the conditions set forth therein and to these (subordinated) general purchase conditions. The general terms and conditions of business of the Supplier do not apply even if they have not been expressly opposed in the individual case or the Supplier declares that it only wishes to deliver on its conditions. The general purchase conditions can be viewed at [www.eis-electronics.de](http://www.eis-electronics.de).

1.2 Supply agreements (also ordering and acceptance) and delivery call-offs as well as changes and additions must be in written or electronic form. Verbal declarations or agreements have no validity.

1.3 If the Supplier does not accept the order within two weeks after receipt, EIS is entitled to cancel the order.

## **2. Scope and content of the duty of performance**

2.1 The scope of the Supplier's duty of performance arises from the specifications, drawings, designs, samples and performance specifications sent when the contract is concluded or, in the absence of these, from the Supplier's offers and brochures. Services must especially be rendered with the most suitable and faultless materials and comply with any statutory or official requirements and the latest state of technology at the time when the contract is concluded. This applies even if this standard is not yet listed in the relevant technical norms and regulations for the Supplier's services. The Supplier shall ensure suitable quality assurance and

monitoring and shall also comply with any quality regulations specifically stated in the order.

2.2 EIS will only accept the ordered quantities or numbers of units. Short, excess or partial deliveries shall only be permitted with the prior written consent of EIS.

2.3 The Supplier shall ensure that the deliveries and services meet the currently applicable environmental protection, accident prevention and other occupational health and safety regulations, safety rules and all applicable legal requirements in the Federal Republic of Germany and the European Union. In addition, for each delivery, the Supplier shall make EIS aware of any treatment and waste disposal requirements that are not generally known.

If EIS is prevented from fulfilling the contractual obligations through force majeure, EIS shall be released from the duty to perform for the duration of the impediment plus a reasonable lead time without being obliged to pay the Supplier compensation. Force majeure is equivalent to any unforeseeable circumstances for which EIS is not responsible that make the contractual obligation unreasonably difficult or temporarily impossible. Examples are unforeseen industrial action, official measures, an unforeseen energy shortage, pandemic and unforeseeable operational disruptions, for example due to destruction of the plant, in its entirety or in key departments. If the impediments last more than four (4) months, EIS has the right to withdraw from the contract or to terminate it without notice if there is no

longer any interest in concluding the contract. At the Supplier's request, EIS shall declare after expiry of the time limit whether it will withdraw from or terminate the contract or fulfill the duties to perform within a reasonable time limit.

### **3. Changes in performance**

3.1 Should it transpire when implementing the contract that deviations from the originally agreed contractual content are necessary or expedient, the Supplier shall immediately inform EIS, stating the associated additional or reduced costs. The changes are subject to the written approval of EIS. Both parties shall do their best to find an amicable solution should this fail; EIS reserves the right to withdraw from the contract.

3.2 The Supplier shall also inform EIS without delay of any changes in the nature of the composition of the materials used or the constructional design compared to similar deliveries and services previously rendered for the EIS. The changes are subject to the written approval of EIS. Both parties shall do their best to find an amicable solution. Should this fail; EIS reserves the right to withdraw from the contract.

3.3 EIS reserves the right to make changes to the performance even after the contract has been concluded, provided this can reasonably be expected of the Supplier or is customary in the industry based on production progress. When making changes to the performance, EIS shall duly take into account the effects, especially with regard to additional or reduced costs and delivery dates, and attempt to find a solution that is acceptable for both parties.

3.4 The Supplier shall inform and support EIS with the early detection of obsolescence. In case of discontinuation, the Supplier shall support the customer in

selecting suitable alternatives and secure the option of a last time buy.

### **4. Provision of materials and other items**

4.1 Materials or items of any kind provided by EIS shall remain the sole property of EIS unless mandatory statutory regulations (sections 946-948 of the German Civil Code (BGB)) preclude it. Insofar as processing or conversion takes place, EIS is deemed the sole manufacturer within the meaning of section 959 BGB. If combining or blending takes place in such a way that the Supplier's items can be seen as the main item, EIS shall be given co-ownership in proportion to the value of the materials. The Supplier shall grant co-ownership for EIS. If items are developed or produced by the Supplier with the substantial participation of EIS or are produced by the Supplier according to the specifications of EIS or are paid for in full by EIS, they may only be used for the purposes of EIS; if such items are the property of EIS, they have to be returned to EIS franco domicile at the request of EIS. The Supplier shall bear the risk of loss and damage for materials and items provided.

4.2 The Supplier is obliged to handle the materials and items provided with care and to promptly subject them to incoming goods inspection. Any defects, deviations and/or ambiguities must be immediately communicated to EIS in writing. Corrective measures must be disclosed to EIS in writing and require written approval.

4.3 If the object of performance is based on a joint development, development of an adaptation, testing or assessment by EIS and the Supplier, the object of performance and its components or parts as well as construction documentation or specifications cannot be supplied or distributed to third parties without the prior

consent of EIS. The same applies to a development by the Supplier alone which has been ordered or paid for by EIS.

## **5. Secrecy**

5.1 The contracting parties undertake to treat as a trade secret all commercial or technical details which are not public knowledge that come to their notice through the business relationship.

5.2 Technical documentation, drawings, models, templates, samples and similar items provided by EIS may not be surrendered to unauthorized third parties or otherwise be made accessible. The duplication of such items is only admissible within the bounds of operational requirements and the provisions of copyright law. Authorized third parties, e.g. subcontractors, must be placed under a corresponding obligation.

5.3 The Supplier may only mention EIS or EIS brands when submitting references or in publications if EIS has previously agreed to this in writing.

## **6. Subcontracts**

6.1 All services ordered by EIS must be executed by the supplier itself and with its own permanent staff. The use of subcontractors must be notified in writing in advance and approved by EIS. The technical suitability and sufficient credit standing of the sub supplier must be proven by the Supplier on request.

The Supplier guarantees the forwarding of the respective requirements of the procurement documents, including key characteristics, etc. to subcontractors."

## **7. Delivery dates, shipping and pricing**

7.1 The delivery date agreed in the order is binding. The delivery date is deemed to have been adhered to when the service/goods are received at the delivery

address specified in the order. The period for delivery runs from the date of the order. A delivery shall only be deemed to be complete if all the required samples, test certificates or other contractually agreed records and documents have also been received by EIS. Payment shall take place after receipt of a proper verifiable invoice and is subject to complete and faultless delivery, including all the documents.

7.2 If it becomes evident to the Supplier that it will be unable to meet the delivery date, the Supplier is obliged to inform EIS immediately in writing, stating the reasons and the expected duration of the delay.

7.3 If the Supplier defaults through its own fault, EIS reserves the right to impose a contractual penalty of 0.1% of the order value for each commenced week of the delay, but a maximum of 5.0% of the order value. The right to compensation for further damage or loss remains unaffected thereby.

7.4 A delivery note stating the order number, item number, EIS article number, date of dispatch, type of packaging, goods description, quantity and weight of the consignment as well as the destination address shall be attached in duplicate to each consignment in an easily visible place.

7.5 Until the object of performance has been handed over at the place of business of EIS, the Supplier bears the risk of loss and deterioration. The delivery date specified in the order must be observed. EIS is not obliged to take delivery before this date. In the event of acceptance before the agreed delivery date EIS shall store the goods until this date at the cost and risk of the Supplier.

## **8. Payment**

8.1 The beginning of the payment period is based on the agreed performance date.

The period of payment shall only begin when EIS has received the invoice according to 8.2. The contractually agreed prices are fixed prices unless otherwise agreed in writing. A separately issued invoice shall be attached to each delivery.

8.2 Invoices must contain the order number, item number, EIS article number, date of dispatch, goods description, quantity and weight of the consignment as well as the legally required information. The original of the invoice must be sent to EIS by email to [rechnungen@eis-electronics.de](mailto:rechnungen@eis-electronics.de). A copy of the invoice shall be attached to the goods delivery. The right of EIS to offset, reduce the price, refuse performance or assert a right of retention vis-a-vis the Supplier's claims is possible at any time, yet with discharging effect.

8.3 Payment shall be effected by bank transfer. The value added tax treatment and any other tax obligations are governed by the statutory provisions.

9.3 The Supplier shall guarantee for up to 36 months after the start-up and use of its deliveries and services by the end customer or after repair that the object of delivery will have no defects affecting use and will have the properties assured pursuant to the contract or by the Supplier. Subsection 9.3, sentence 1, and the other provisions regarding defects also apply to the stated service and consumption figures and in the event that the Supplier has obtained the services of subcontractors.

9.4 EIS shall notify the Supplier in writing of any defects in delivery, transport or packing damage as soon as they can be detected according to the circumstances of a proper business transaction. In this context recognizable defects shall be notified within 14 days after delivery of the

goods and unrecognizable defects within 14 working days after they are discovered.

9.5 If the delivery or service rendered by the Supplier is defective, or if the delivery or service is in any way not rendered in accordance with the contract, EIS may primarily demand rectification of the defect within an appropriate period of time, defect-free delivery of the relevant part of the delivery or a reduction of the order price. Secondly, EIS reserves the right to withdraw from the contract.

9.6 If the Supplier fails to meet its obligations for subsequent performance within an appropriate period of time, wrongly refuses to rectify a defect or if such rectification fails or is unacceptable for EIS, especially if there is imminent danger, EIS may undertake the necessary measures itself, or have them carried out by a third party, at the Supplier's expense and risk and without prejudice to the claims of EIS in respect of defects. EIS is entitled to offset the costs required to rectify the defect or to assert a right of retention.

9.7 The Supplier shall be liable for replacement deliveries and repair work to the same extent as for the original service or delivery. In the case of replacement deliveries the notification period for defects begins again.

9.8 The Supplier shall be liable for all loss or damage negligently caused - including that due to slight negligence - associated with its performance. This includes damage which occurred when rendering delivery or performance. The Supplier shall be liable both for its own negligence and for the negligence of subcontractors which it has commissioned.

9.9 Unless otherwise agreed in these purchase conditions, the statutory regulations governing defects apply, which become statute-barred according to the

legal provisions of section 438 of the German Civil Code (BGB).

## 10. Product liability

10.1 Should EIS be subject to claims arising from infringement of official safety regulations, or arising from product-liability regulations in Germany or abroad, or arising from any other defects attributable to a deficient delivery or performance by the Supplier, the Supplier shall be obliged to indemnify EIS from any compensation claims by third parties in this respect. This applies if the Supplier is personally liable in relation to third parties or if EIS is obliged to pay compensation. Under these circumstances, the Supplier is also obliged to reimburse expenses for product recalls or exchanges. To the extent that is reasonable, EIS shall inform the Supplier about the content and scope of the product recall or exchange and give it an opportunity to comment.

10.2 To safeguard against the risks specified in 10.1, the Supplier shall take out product liability insurance and prove this to EIS on request. The liability coverage must be at least € 2.0 million in the individual case and cumulatively twice this amount.

10.3 The supplier shall carry out quality assurance of a suitable nature and scope corresponding to the current state of the art and prove this to EIS on request. If EIS deems it necessary, the Supplier shall conclude a corresponding quality assurance agreement with EIS.

## 11. Industrial property rights

11.1 The Supplier shall be liable for ensuring, and gives its assurance, that industrial property rights of third parties, especially patents or licenses, will not be infringed by the delivery, use and operation of the offered items or the services to be rendered by the Supplier.

11.2 The Supplier shall indemnify EIS and customers of EIS against claims by third parties arising from any infringements of industrial property rights and shall bear all the costs that EIS incurs in this connection.

## 12. Assignment of claim, offset

12.1 The Supplier may only assign, pledge or otherwise transfer claims arising from legal transactions concluded with EIS with the prior written consent of EIS. If the Supplier assigns claims contrary to sentence 1, the assignment shall nevertheless be valid. EIS may, however, effect payment to either the Supplier or the third party with a discharging effect. Unconditional payment does not constitute an acknowledgment that the service was in accordance with the contract specifications, nor does it constitute an acknowledgement of the underlying prices.

12.2 EIS reserves the right to offset against claims of the Supplier. It shall not be necessary for the offset claims to have been finally established in law or to have been acknowledged by the Supplier.

## 13. Right of withdrawal, termination

13.1 If either of the contracting parties suspends its payments, or if insolvency proceedings are instituted with respect to its assets, or an application is filed for in or out-of-court composition proceedings, the other party shall be entitled - after having allowed a reasonable period of grace - to withdraw from the part of the contract that has not been performed or to terminate the contract. For the right of termination pursuant to section 649 BGB or for a right of withdrawal or termination agreed when placing an order, the following applies: All the costs incurred up to termination of the contract will be reimbursed. The Supplier shall prove the facts that substantiate its asserted claims.

#### **14. Stocks of spare parts, readiness to deliver**

14.1 The Supplier shall ensure stocks of spare parts and readiness for delivery for the normal life span of its performance, but for at least 10 years from fulfillment. Even if such a stockholding obligation no longer exists for the services rendered for EIS, the Supplier shall inform EIS in good time of its intention to stop stocking spare parts or its readiness to deliver so that spare parts can still be supplied by the Supplier to EIS to enable it to build up its own stocks of spare parts.

#### **15. Severability**

15.1 Should a contractual agreement be or become invalid, the validity of the remainder of the contract shall not be affected thereby. The contracting parties are obliged to replace the invalid provision with a valid provision that comes as close as possible to its purpose; otherwise the provisions of the German Civil Code apply.

#### **16. Export control**

16.1 The Supplier is obliged to submit the necessary written declarations relating to the object of delivery (e.g. regarding the country of origin, HS code, export list number, supplier declaration, movement certificate, etc.) in good time before the first delivery and to inform EIS about subsequent export restrictions, if applicable. The Supplier must notify EIS of any change of origin in writing without delay and without being asked.

If an export permit is required for the delivery, this must be obtained by the Supplier in good time. A copy of the export permit must be handed over to EIS at the latest with the delivery.

#### **17. Applicable law/Place of jurisdiction**

17.1 The law of the Federal Republic of Germany applies. The place of jurisdiction is Bremerhaven.