

General Terms and Conditions of Roschi Rohde & Schwarz AG

March 2014

1. Scope of validity

These General Terms and Conditions of Roschi Rohde & Schwarz AG (hereinafter referred to as "RRS") apply to all business conducted between RRS and the customer.

By entering into a contract with RRS, the customer acknowledges these General Terms and Conditions and expressly waives the right to enforce any General Terms and Conditions of its own. Such General Terms and Conditions shall only apply insofar as RRS has acknowledged them in writing.

Amendments and supplements to these General Terms and Conditions and ancillary agreements shall only be effective insofar as they have been expressly agreed in writing.

2. Offers and conclusion of agreements/scope, performance and place of delivery or service

All offers made by RRS shall be subject to change unless expressly stated otherwise.

An agreement shall be concluded between RRS and the customer by both parties signing the contract or, in the absence of such contract, upon issue of written confirmation by RRS that the customer's order has been accepted (order confirmation). If there is no such confirmation, the agreement shall be concluded with the delivery or the performance of services.

The subject matter of the agreement shall be conclusively determined by the contract signed by both parties, or, in the absence of such contract, by the order confirmation of RRS or, if there is no such confirmation, with the delivery note. Deviations from the goods/services ordered shall be considered as compliant with the agreement insofar as they do not considerably impair key characteristics of the delivery and services.

Documentation, illustrations, drawings, weights or performance specifications, etc. in brochures and data sheets, etc. shall not be binding unless expressly promised to the customer in writing.

Unless agreed otherwise between the parties in writing, RRS will supply standard versions of products.

Where special versions of products are produced and supplied to the customer, either in full or in part, the work shall be based on the special performance description, which shall also state which results are desired under which conditions.

In the absence of any written agreement to the contrary, the deliveries shall be made by RRS ex-works (EXW RRS, in accordance with Incoterms 2010).

Where no special place of performance has been agreed between the parties, the registered office of RRS shall be regarded as the place of performance.

If the customer does not accept the deliveries and services as agreed, RRS is entitled to make a unilateral decision on how to proceed and the customer shall reimburse RRS for the additional expenses incurred as a result of the nonacceptance.

3. Software

RRS shall grant the customer the nonexclusive and nontransferable right, for an unlimited period

of time, to use the software and the associated documentation exclusively for the operation of the intended hardware. The customer shall not be entitled to reproduce, modify, complement, compile or recompile the software in whole or in part. The software and the documentation may only be copied for backup or archiving purposes, or for other purposes expressly authorized by RRS in writing (maximum of three copies). All copies must bear the same copyright notices as the original. The customer warrants that the software and the documentation will not be made available, in whole or in part, to third parties.

The above provisions shall also apply to any modifications of or supplements to the software or associated documentation. In the event of a resale of the delivery item and/or the right to use the software, the latter being subject to the consent of RRS, the customer undertakes to impose the above obligations on the purchaser.

RRS shall reserve all other rights to the software and the documentation.

4. Documentation

The customer shall be entitled to one copy of the standard user documentation published by RRS. Additional copies or documentation in languages that are not yet available may be invoiced separately by RRS.

Deviations in the documentation, i.e. with regard to descriptions and illustrations, shall be permissible as long as the documentation fulfills its purpose.

RRS shall retain unreserved ownership rights and copyright exploitation rights to all offers, cost estimates, drawings, technical information, data, descriptions and other documentation (hereinafter referred to as "documentation"). The customer shall not be entitled to reproduce or copy the documentation without the express written consent of RRS or to make it available to third parties, pass it on in any other way or use the documentation or any information contained therein in a way that is contrary to the interests of RRS, i.e. the information may not be used to obtain offers from competitors.

5. Customer's obligation to provide information

The customer shall inform RRS in good time of any special technical prerequisites, as well as of the statutory, official and other regulations that apply at the place of destination of the deliveries and services, insofar as they are of significance for the implementation and use of the deliveries and services.

6. Deadlines

Only deadlines confirmed in writing shall be binding. Compliance by RRS with the periods for deliveries and/or services requires that all obligations of the customer are fulfilled properly and in due time, in particular that all documents, approvals and releases to be furnished by the customer are received by RRS in time, as well as that all plans are clarified and approved in time. Deadlines for which RRS is responsible shall be extended appropriately:

- a) if RRS does not receive the information required for performance, or does not receive it on time, or if the information is subsequently changed by the customer;

- b) if the customer is in delay with work it has to perform or defaults on its contractual obligations, in particular if payment terms are not complied with;

- c) in case of obstacles beyond the control of RRS, such as natural phenomena, mobilization, war, uprisings, epidemics, accidents and diseases, considerable operational interruptions, industrial disputes, strike, delayed or incorrect supply or official measures. This shall include any sovereign acts, such as refusal of a required governmental approval in spite of an application having been properly filed or imposition of an embargo,

If RRS is in delay exclusively by its own fault, the customer may – if it can prove that it has suffered damage owing to the delay – demand, from the third full week, liquidated damages equal to zero point five percent (0.5 %) for each further full week of delay up to a maximum of five percent (5 %) of the value of the delayed part of the deliveries and/or services.

Claims of the customer for compensation of the default damage due to the delayed delivery and/or service and any further claims for damages exceeding in total the above limit of five percent (5 %) of the value of the delayed part of the deliveries and/or services shall be excluded in all cases of delayed delivery and/or performance of services, even after expiry of any extension period granted to RRS.

If RRS is in delay of delivery and/or performance of services, the customer may withdraw from the contract in accordance with the statutory provisions only if the default damage has reached the upper limit of five percent (5 %) of the value of the delayed part of the deliveries and/or services as specified above.

At the request of RRS, the customer shall – if it has the right to withdraw from the contract as specified above – state within a reasonable period of time whether it will withdraw from the contract due to delayed deliveries and/or services and/or whether it will claim the maximum permissible amount of damages specified above in lieu of deliveries and/or services or in addition to deliveries and/or services. Claims based on default will become statute-barred within six (6) months from their accrual and knowledge, or grossly negligent lack of knowledge, of the customer.

RRS is entitled to make partial deliveries and provide partial services and to invoice them separately.

7. Withdrawal from contracts for work and services or from orders

If the customer has ordered work, it may, as long as the work is still in process and even if RRS has not exceeded a deadline, withdraw from the agreement at any time against full indemnification of RRS (Art. 377 of the Swiss Code of Obligations (OR)).

The indemnification shall correspond to the full remuneration to which RRS would have been entitled had it performed the agreed work, less any expenses saved by RRS as a result of the customer's withdrawal. RRS has the option of furnishing evidence of the specific amount owed, or claiming a lump sum for the following part of the agreed full remuneration instead;

- 50% if RRS has not yet ordered any material and has not yet started to perform the work;
- 75% if RRS has already ordered material and/or has already started to perform the work;

- 100% if the work has largely been completed.

If an order has been issued, it shall be deemed terminated at an improper time if it is terminated less than one month prior to the planned start date. In this case, the customer shall owe a penalty for breach of contract.

This penalty shall amount to:

- 50% of the order value if the termination takes effect less than one month prior to the planned start date;
- 75% of the order value if the termination takes effect after the execution of the order has already commenced.

The customer acknowledges this penalty for breach of contract as being appropriate. The right to substantiate and assert further damage remains explicitly reserved.

8. Acceptance

Insofar as no particular acceptance procedure has been agreed, the customer shall inspect the deliveries and services of RRS itself and report any defects in writing.

If defects are not reported within two weeks after the delivery of goods, the execution of an order or the notice of completion of work, the deliveries and services are deemed to have been approved. The notice of completion of work shall be deemed equivalent to the physical use of the work by the customer.

If defects that would have been impossible to detect even after a thorough inspection are identified at a later stage within the warranty period, the customer shall inform RRS immediately in writing. Otherwise, the delivery or the service shall be deemed approved, also in respect of these defects.

9. Warranties

RRS warrants that the deliveries and services have the assured properties and that they are free of defects.

The warranty period shall be 12 months in the absence of any written agreement to the contrary and shall begin, in the case of orders, when the orders are executed, for deliveries, at the time of delivery, and, for work services, at the point in time when they are approved or are deemed approved.

If acceptance has been agreed, the warranty period shall commence on the date of acceptance. If the customer refuses to perform acceptance, the period shall commence on the date on which the product is ready for acceptance according to RRS.

The customer shall only be entitled to assert warranty claims if it has fulfilled its contractual obligations.

RRS undertakes at its option to either repair or replace all parts of its deliveries or services that are proven to be defective before the end of the warranty period as a result of inferior material, faulty design or defective execution within a reasonable period of time, or to refund the part of the price that is attributable to these parts.

Defects and disruptions for which RRS is not responsible, such as natural wear and tear, force majeure, incorrect handling, interventions made by the customer or third parties, excessive stress,

unsuitable operating material or extreme environmental influences, shall not be covered by the warranty.

RRS shall choose to perform the warranty services on its premises or on the site of the customer, who must grant RRS free access.

Disassembly and assembly, transportation, packaging, travel and subsistence costs shall be borne by the customer. Replaced parts become the property of RRS.

The warranty and limitation periods shall not be suspended by the acknowledgment or remedy of a defect.

Where it is not possible to remedy the defect, the customer shall be entitled to a price reduction and compensation for any proven, direct damage up to a maximum of 10 percent of the value of the defective product. All further warranty claims are excluded. In particular, the customer may not withdraw from the agreement or demand compensation for consequential damage.

10. Exclusion of further liability of RRS

All cases of breach of contract and their legal consequences as well as all customer claims, regardless of the legal grounds, are completely settled by these General Terms and Conditions. All claims for damages, reduction of purchase price, cancellation of or withdrawal from contract that are not explicitly specified shall be excluded.

Unless provided otherwise in these General Terms and Conditions and to the extent permitted by law, RRS shall explicitly not be liable for financial loss and any other damage, in particular for default damage and claims for compensation of direct, indirect or consequential damage, such as loss of production, loss of use, loss of orders, loss of profit, loss of earnings, unrealized savings, compensation for expenses, business interruption, contractual claims of third parties, financing expenditures, loss of interest and claims under a covering purchase, as well as loss of data, information and programs as a result of a software error – regardless of the legal grounds. This exclusion of liability shall not cover unlawful intent or gross negligence on the part of RRS; however, it shall apply to unlawful intent and gross negligence of auxiliary persons.

11. Prices and terms of payment

Unless stated otherwise, all prices shall be in Swiss francs.

Prices reflect the current cost situation. If costs change before the day of delivery/performance of services, RRS reserves the right to adjust its prices accordingly, provided that delivery/performance takes place more than four months after conclusion of the agreement.

Unless explicitly agreed otherwise, all invoices issued by RRS shall be due net, without any deductions, within 30 days of the invoicing date and shall be paid to the payment office specified by RRS.

VAT, fees, levies, customs duties, transportation, packaging, insurance, consular or legalization fees as well as costs incurred for commissioning, training and user support shall not be included in the price – unless agreed otherwise – and shall be paid for additionally by the customer.

Counterclaims, even if they originate from the same agreement or disputes relating to it, may

only be offset by the customer subject to the written consent of RRS or a res judicata court judgment.

If the customer does not comply with the payment terms, default interest of eight per cent p.a. shall be automatically payable from the due date, without any reminder having to be issued.

12. Retention of title

Until the full payment of the entire purchase price has been received, RRS shall be authorized to have its retention of title to the delivered products registered in the retention of title register and to inform the landlord of the business premises where the purchased products are located. The customer shall inform RRS before moving the delivered products to other business premises and shall inform RRS of the new landlord's address before moving into the new rented premises.

Until the full purchase price has been paid, the products may neither be pledged nor transferred by way of security. If the goods are resold in the course of usual business operations, the customer shall assign its claims against the purchaser to RRS.

13. Export

The customer shall be responsible for observing domestic and international export regulations.

14. Resale

Unless agreed otherwise between the parties or unless this contravenes the nature of the business, the customer is entitled to resell the products in a changed or unchanged condition.

If the customer resells the products, it shall ensure that all obligations with regard to confidentiality, as well as from any approval reservations for re-export, are transferred to the purchaser.

15. Applicable law and place of jurisdiction

All agreements between RRS and the customer shall be subject to Swiss law. The United Nations Convention on Contracts for the International Sale of Goods (Vienna Convention) of April 11, 1980, shall not apply.

The exclusive place of jurisdiction for all disputes between the parties shall be the registered office of RRS, the registered office of the customer or any other statutory place of jurisdiction as decided by RRS. This provision shall not apply if it is overridden by mandatory law.

In the event of cases being brought before courts of law, only the wording of the German General Terms and Conditions of RRS shall apply.



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