



# ROHDE & SCHWARZ

## General Conditions for Deliveries and Services

### for Use in Transactions with Business Customers

April 2019

#### 1. GENERAL

The quotation is subject to these Conditions only. Any conditions of the Customer which are in conflict with these Conditions are not binding unless they have been confirmed by Rohde & Schwarz Portugal, Lda. ("RSP") in writing.

#### 2. PRICES

Prices for Deliveries are CIP to the destination indicated in the offer, according to INCOTERMS 2010, ICC Publication Section 715. The prices quoted are net prices in Euro (€) including standard commercial packing. Prices exclude any sales, value added or similar tax and exclude any customs, charges, duties as well as any consular or legalization fees.

#### 3. TRANSFER OF RISK / RESERVATION OF TITLE

The risk shall pass to the Customer in accordance with the agreed INCOTERMS. Title to the Deliveries is retained by RSP until full payment.

#### 4. TERMS OF PAYMENT

All payments shall be made to RSP within thirty (30) calendar days from the invoice date without any deductions. For orders above € 50,000 net, a down-payment of thirty percent (30%) plus proportionate VAT shall be made upon placing of the order. RSP shall not be obliged to pay any interest on the down-payment. RSP reserves the right to demand further security for payment and/or advance payments.

#### 5. PERIODS OF DELIVERIES

Compliance by RSP with the periods for Deliveries 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 RSP in time, and that such other obligations are satisfied which are required for the Deliveries by RSP to be carried out properly and in due time. If such requirements are not satisfied in time, the periods shall be extended accordingly, plus a reasonable restart period. If RSP is in delay, the Customer can claim, from the third week of delay, liquidated damages to the amount of 0.5% for each full week of delay up to a total of 5% of the value of the delayed part of the delivery. In case the delay exceeds 12 weeks the Customer has the right to withdraw from the contract. Any further claims due to delayed delivery shall be excluded. If the Customer is in delay with payment RSP reserves any rights, including the right to charge interest.

#### 6. SOFTWARE

RSP grants the Customer the non-exclusive right to use the contractual computer programs and associated documentation jointly ("**Software**") exclusively for the operation of the hardware intended or supplied therefore. The right to use is limited to the agreed period of time; in the absence of such agreement, the right to use shall be unlimited in time. The Software will solely be provided in machine-readable format (object code) and without source code and source-code documentation. The Customer shall in particular not be entitled to modify, decompile, disassemble or otherwise reverse engineer the Software in whole or in part unless stipulated otherwise by mandatory law. The Software may only be copied for archiving purposes or if it is required for its intended use. The Software and the right to use the Software may not be sublicensed and may only be transferred, leased or lent to a third party together with the according hardware; in such a case the Customer undertakes to impose the above obligations on the third party. RSP may also deliver third party programs (including, but not limited to open source programs) to the Customer; in this event the respective third party license terms which will be made available by R&S shall take precedence over this Section 6 as far as the third party programs are concerned.

#### 7. WARRANTY

RSP warrants that the Deliveries are free of defects in materials and workmanship and conform to agreed specifications. RSP shall, at its option and free of charge, remedy any defects within 12 months from delivery (the "**Warranty Period**") if the cause of the defect was present at the time of the transfer of risk. The Customer shall immediately give detailed written notice of any defects to RSP. RSP shall not be responsible for defects in case of minor deviations from the agreed specifications, misuse, neglect, accident or abnormal condition of operation or in case of modifications or repair carried out by the Customer or by third parties. Software shall be considered to be defective only if there are reproducible deviations from the specifications. Should RSP fail to remedy the defect within a reasonable period of time, the Customer can withdraw from the contract or reduce the agreed remuneration. Further claims are excluded.

#### 8. INTELLECTUAL PROPERTY RIGHTS

The delivery shall be free of defects of title such as third-party industrial property rights and copyrights (hereinafter "**Property Rights**") in the country of the place of delivery. Within the warranty Period RSP shall, at its option and cost, either obtain a right to use the delivery items concerned, or modify them to prevent an infringement of Property Rights, or replace them. If this is not possible for RSP under reasonable conditions, the Customer shall have the right to withdraw from the contract or reduce the agreed remuneration. The above obligations of RSP shall only be in force on condition that: (i) the Customer immediately informs RSP in writing about any claims asserted by third parties, (ii) the Customer does not acknowledge any infringements, and (iii) the right of RSP to conduct any defense measures or settlement negotiations shall remain unaffected. Further claims are excluded.

#### 9. LIABILITY

RSP shall be liable without limitation for damage caused with intent or gross negligence and in case of culpable damage to life, body or health. The liability under the mandatory provisions of product liability law applicable from time to time shall remain unaffected. Otherwise, the liability of RSP towards the Customer, no matter on what legal ground, including delay, shall be limited in aggregate to an amount equal to fifteen percent (15%) of the agreed remuneration. RSP shall not be liable for financial loss or consequential damages, for loss of profit, loss of production, interruption of business, contractual claims of third parties, lost usage, financing expenditure, interest loss and claims under a covering purchase as well as for loss of data, information and programmes as a result of a software error. Subject to the liability by mandatory law the limitation period for any liability claims shall be twelve (12) months from accrual and knowledge, or grossly negligent lack of knowledge, of the Customer. Any further liability of RSP shall be excluded.

#### 10. APPLICABLE LAW / JURISDICTION

All contractual relations between the parties shall be governed exclusively by Portuguese law. (The application of the UN Convention for the International Sales of Goods (CISG) shall be excluded.) The courts of Lisbon shall have exclusive jurisdiction.

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