

### 1. General

- 1.1 Our orders shall be binding if they are placed in writing. Oral and telephone agreements are confirmed by us in writing. The same shall apply for all amendments, supplements, specifications, etc.
- 1.2 Unless otherwise agreed in writing for particular cases the present terms and conditions shall prevail for all our orders placed. Terms and conditions stipulated by the supplier shall be binding upon us if and to the extent we have expressly accepted them in writing.
- 1.3 Should business transactions with any supplier be carried out mainly via EDI, the conditions to be applied shall previously be agreed upon in writing, specifying both the business partners and the respective business transactions.
- 1.4 Third parties within the meaning of these terms and conditions are also subsidiaries, holding and group companies.

### 2. Rights of Use, Rights of Development Designs, Open Source Software

- 2.1 The Supplier shall grant us the non-exclusive, transferable right of use for the standard software included in the service. The Supplier shall guarantee that it has the relevant rights of use and rights of sale at its own disposal and shall indemnify us from any claims of the third parties in connection with infringements of those rights.
- 2.2 As far as construction or development results emerge from the performance of the services, in case of a construction or development order, we shall hold property and exclusive use of all construction and development results deriving there from. Without our express written consent the constructions and developments shall neither be made available to third parties in whole or in part nor used for own or other purposes.
- 2.3 The Supplier shall not make any third party software (including but not limited to Open Source Software as defined below) part of the Deliverables unless having obtained the prior written consent of Siemens.

As used herein, the term "Open Source Software" means any software that is licensed royalty-free (i.e., fees for exercising the licensed rights are prohibited, whereas fees for reimbursement of costs incurred by licensor are generally permitted) under any license terms or other contract terms ("Open License Terms") which allow every user to modify such software and/or require, as a condition of modification and/or distribution of such software and/or any other software incorporated into, derived from or distributed with such software ("Derivative Software"), either of the following:

- that the source code of such software and/or any Derivative Software be made available to third parties;
- that permission for creating derivative works of such software and/or any Derivative Software be granted to third parties.

By means of example and without limitation, Open License Terms include the following licenses or distribution models: the GNU General Public License (GPL) and the GNU Lesser General Public License (LGPL).

The Supplier must provide Siemens before confirmation of the order, with the following:

- Source Code of the used Open Source software,
- List of all used Open Source data with a reference to any applicable license, as well as a copy of the entire license text,
- written confirmation stating that, by the normal use of Open Source software neither the services of the supplier, nor our products, shall be subject of "Copyleft effect", which, within the meaning of these General Terms and Conditions shall indicate, that the Open Source terms of a license request that certain services of the supplier, as well as works derived from it, may be further distributed only subject to conditions of the Open Source terms of a license, such as e.g. disclosure of the Source Code.

Notwithstanding anything to the contrary in this Agreement, if the Supplier is in breach of this Section 2.3, the Supplier shall indemnify, defend and hold harmless Siemens, its Subsidiaries, distributors and customers of Siemens as well as distributors and customers of Siemens' Subsidiaries, from any damage, loss, costs and expenses suffered by them as a result of any such breach.

### 3. Documents and Auxiliary Material of Siemens

- 3.1 Documents (drawings; manufacturing, testing and delivery instructions; etc.) and other operating or auxiliary material (samples, models, etc.) we made available shall remain our property and shall be marked accordingly.
- 3.2 With the conclusion of the contract the supplier authorizes us to have entered the reservation of title of the afore-mentioned objects in the official registers according to the laws of the respective countries and to fulfill all formal requirements. The supplier shall take all measures necessary to protect our property.
- 3.3 Without our express written consent the abovementioned documents shall neither be copied nor made available to third parties and be used for no other purpose but completing our order.

The documents and auxiliary material shall be returned to us intact any time upon our request, at the latest, however, upon delivery of the goods, or - if expressly agreed - be stored by the supplier until revoked.

- 3.4 The supplier shall be liable for any damage to our property and thus obliged to store and treat the documents and auxiliary material appropriately, and to insure them, in agreement with us, against possible damage.

### 4. Prices and Terms of Payment

- 4.1 The agreed prices are firm prices. Change in prices and respective other reservations shall only be binding if and to the extent they are expressly acknowledged by us in writing.
- 4.2 Each delivery shall be invoiced immediately upon shipping. A separate invoice shall be made out for each delivery indicating both VAT and our job order code. Invoices lacking this information are rejected. Registered c.o.d. consignments are not accepted.
- 4.3 Our payments are effected irrespective of an examination of the goods upon receipt at their destination. Consequently, our payments or partial payments do not constitute acknowledgment of quantity, price and quality. Thus, we shall still be fully entitled to legal claims even after payment of the goods.
- 4.4 Unless provided otherwise, our payments shall be settled not later than on the 60th day counting from the date of the invoice.
- 4.5 Assignment of claims against us as well as setting off against counterclaims is not permitted.

### 5. Deliveries and Services of the Supplier

- 5.1 The quantities specified in our orders shall be complied with. We reserve the right to place surplus parts at the disposal of the supplier against full compensation of our expenses and in case of reduced quantity to insist on the performance of the quantity ordered.
- 5.2 The supplier shall be liable that the delivery according to the contract has no legal or physical defects and is both in perfect condition and made with high-quality raw materials fit for the intended use. This mainly concerns the fulfillment of governmental and statutory safety regulations of the manufacturing country and the country of destination. We are entitled to place defective goods at the disposal of the supplier and to claim faultless replacement thereof.
- 5.3 Deliveries of suppliers and sub-contractors are object of our quality assurance system pursuant to ISO9001 / EN29001. Our suppliers and sub-contractors are appraised accordingly.
- 5.4 Should the Supplier deliver products, substances of which are set out in the so-called "List of Declarable Substances" ([www.bomcheck.net/suppliers/restricted-and-declarable-substances-list](http://www.bomcheck.net/suppliers/restricted-and-declarable-substances-list)) applicable at the time of the order or which are subject to statutorily imposed substance restrictions and/or information requirements (e. g. REACH, RoHS), Supplier shall declare such substances in the web database BOMcheck ([www.BOMcheck.net](http://www.BOMcheck.net)) no later than the date of first delivery of products.

Should the delivery contain goods which – according to international regulations – are classified as dangerous goods, the Supplier will inform us hereof in a form agreed upon between Supplier and us, but in no case later than the date of order confirmation.

### 6. Packing and Shipping

- 6.1 Packing shall be adapted to the goods and the mode of transportation. Preference shall be given to environmentally friendly packaging material. Loss and damage of goods attributable to defective packing shall be at the supplier's expense.
- 6.2 Each delivery / partial delivery shall contain a delivery note specifying our job order code, article no. and description of goods, net and gross weight and / or exact number of pieces. Partial deliveries shall be indicated as such.
- 6.3 Each document regarding the order shall at least specify our job order code.

### 7. Dates and Periods of Delivery, Default in Delivery

- 7.1 The dates and periods of delivery fixed by us shall be binding (also for partial deliveries). They shall be regarded as observed if the goods arrive at their destination prior to the expiration of the dates and periods fixed.
- 7.2 Failure to observe the agreed dates and periods of delivery (also for partial deliveries) shall entitle us to waive performance of the service without granting an additional period of time, and to withdraw from the contract. Legal claims for damages shall be reserved.
- 7.3 For deliveries that effected earlier than agreed, we shall reserve the right to pay the respective invoice at the agreed time of delivery.
- 7.4 If a speedy dispatch (freight, express delivery, etc.) is necessary due to delayed delivery, the additional freight charges shall be

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- borne by the supplier. Additional expenses for not required express deliveries shall also be borne by the supplier.
- 8. Place of Performance, Passage of Benefit and Risk**
- 8.1 The place of performance for the delivery of goods is their destination, and for the payment it is the domicile of the buyer.
- 8.2 Upon delivery of the goods at their destination benefit and risk are passed to us.
- 9. Examination, Warranty, Liability for Defects**
- 9.1 The supplier shall examine the quantity and quality of the goods before they are shipped.
- 9.2 The supplier shall be liable that the services according to the contract have no legal or physical defects and are both in perfect condition and made with high-quality raw materials fit for the intended use.
- 9.3 The obligation of immediate examination and notification according to Art 201 CO shall be waived. By the acceptance of our purchase order the supplier recognizes order notifications of defects without adherence to a notification period as obtained in time.
- 9.4 The right to claims for rescission of sale, reduction in price, improvement or replacement and damages (Art. 205 et seq. and 368 CO) is reserved. Furthermore, we reserve the right to retain the payment fully or partly until, (i) if we require replacement, the supplier has fulfilled his duty to deliver a faultless replacement or (ii) the circumstances regarding any rescission of sale, reduction in price and damages have been settled bindingly.
- 9.5 We do not accept reduction of the warranty periods provided by the law. In any case the warranty period shall be not less than 2 years starting with receiving respectively acceptance on the occasion of a separately agreed formal acceptance test (whichever occurs later).
- 10. Product Liability**
- 10.1 We will immediately notify the supplier of any defect in the product known to us, if the defect caused or could cause an accident resulting in death, personal injury or material damage, and discuss the steps to be taken together with the supplier. The supplier shall support us in the dispute with the injured and indemnify us against legitimate claims as well as for costs of any recall action attributable to defects in the goods for which the supplier is responsible.
- 11. Liability**
- 11.1 The supplier shall fully indemnify us from any harm or claims in connection with services, as well as from any claims of third parties, regardless of their legal cause, be it warranty, default, product liability, infringement of industrial and intellectual property rights or any other cause.
- 12. Confidentiality**
- 12.1 The Supplier shall not make available to any third party any information obtained from us or the present business relationship. Insofar as we agree to any subcontracting to a third party, such third party shall agree to such terms in writing.
- 13. Disclosure of the Business Relationship, Data and Information**
- 13.1 The supplier shall agree that all data and information required for the business relationships or resulting from said relationships, especially contractual documents and papers as well as data and information necessary for the performance of the contract of and about the supplier and their auxiliary persons (Hilfspersonen) may also be stored outside Switzerland. Furthermore, all this data and information may be disclosed to Siemens AG as well as to their associated companies for corresponding processing, especially for providing services, fulfillment of legal requirements or for Siemens-internal audit and/or supervisory requirements; this always in compliance with respectively applicable data protection laws.
- 14. Code of Conduct for Siemens Suppliers**
- 14.1 The supplier is obliged to comply with the laws of the applicable legal system(s). In particular, the supplier will not engage, actively or passively, nor directly or indirectly in any form of bribery, in any violation of basic human rights of employees or any child labor. Moreover, the supplier will take responsibility for the health and safety of its employees, the supplier will act in accordance with the applicable environmental laws and will use best efforts to promote this Code of Conduct among its suppliers. In addition to other rights and remedies we may have, we may terminate the contract and/or any purchase order issued there under in case of breach of these obligations by the supplier. However, provided that supplier's breach of contract is capable of remedy, our right to terminate is subject to the proviso that such breach has not been remedied by the supplier within a reasonable grace period set by us.
- 15. Export control and Foreign Trade Data Regulations**
- 15.1 Supplier shall comply with all applicable export control, customs and foreign trade regulations ("Foreign Trade Regulations") for all Products to be delivered and Services to be provided according to this Agreement. The Supplier shall also obtain all necessary export licenses, unless buyer or any party other than supplier is required to apply for the export licenses pursuant to the applicable Foreign Trade Regulations.
- 15.2 Supplier shall advise buyer in writing as early as possible, but not later than two weeks following the date of order, and also in case of any alterations to the order, of any information and data required by buyer to comply with all Foreign Trade Regulations for the Products and Services applicable in the countries of export and import as well as re-export in case of resale, in particular:
- the "Export Control Classification Number" according to the U.S. Commerce Control List (ECCN) if the Product is subject to the U.S. Export Administration Regulations; and
  - all applicable export list numbers; and the statistical commodity code according to the current commodity classification for foreign trade statistics and the HS (Harmonized System) coding; and
  - the country of origin (non-preferential origin); and upon request of Buyer: Supplier's declaration for preferential origin (in case of European suppliers) or preferential certificates (in case of non-European suppliers).
- 15.3 Does supplier violate any of his obligations resulting from the provision 15.1, he shall be liable for any expenses and/or damage incurred by buyer due to the lack of or inaccuracy of said Export Control and Foreign Trade Data unless the supplier is not responsible for that.
- 16. Reservation Clause**
- 16.1 Siemens shall not be obligated to fulfill this agreement if such fulfillment is prevented by any impediments arising out of national or international foreign trade or customs requirements or any embargoes or other sanctions.
- 17. Applicable Law**
- 17.1 The present contractual relationship shall be governed by Swiss substantive law. The application of the United Nations Convention on Contracts for the International Sale of Goods of April 11, 1980 ("the Vienna Law on the International Sale of Goods") shall be excluded.
- The Supplier acknowledges herewith for all purchase orders the acceptance of Siemens Terms & Conditions of purchase of Siemens Switzerland Ltd.
- 18. Tribunal Arbitral**
- 18.1 Any dispute, controversy or claim arising out of or in relation to this contract, including the validity, invalidity, breach or termination thereof, shall be settled by arbitration in accordance with the Swiss Rules of International Arbitration of the Swiss Chambers of Commerce in force on the date when the Notice of Arbitration is submitted in accordance with these Rules. The number of arbitrators shall be three.
- The seat of the arbitration shall be in Zurich, Switzerland. The arbitral proceedings shall be conducted in English.