

# GTC

## General terms of delivery, service and payment

Unless otherwise agreed, the following terms and conditions of **Schrempp electronic GmbH**, which has its origin in the condition recommendations of the ZVEI (Zentralverband Elektrotechnik- und Elektronikindustrie e.V.) with the additional clause "extended reservation of title".

### 1. General

**1.1.** For all contractual relationships between the customer and the company Schrempp electronic GmbH - hereinafter referred to as "contractor" - are subject to the following conditions. Conflicting conditions or conditions deviating from the terms of delivery and payment shall not be recognized by the contractor, unless the contractor has expressly agreed to their validity in writing. The terms of delivery and payment of the contractor shall also apply if he carries out deliveries and services to the customer unconditionally in the knowledge of conflicting or deviating terms and conditions of the customer.

**1.2.** The contractor has the right to withdraw from the contract if the customer objects to the terms of delivery and payment. In this case claims by the customer are excluded.

**1.3.** The customer is obliged to inform the contractor, if it can not be ruled out that the products delivered by the contractor to consumers within the meaning of § 13 BGB to be delivered - also incorporated into other products.

**1.4.** For cost estimates, drawings and other documents, the contractor reserves his ownership and copyright exploitation rights without restriction; they may only be made accessible to third parties with the prior written consent of the contractor. The drawings and other documents attached to the offer shall be returned to the contractor immediately if the order is not placed. The above regulation does not apply, as far as the listed documents are generally accessible.

### 2. Offers

**2.1.** Contracts are only concluded by a written or electronically transmitted order confirmation by the contractor. Until then, the offers of the contractor, in particular but not exclusively in terms of execution, prices and deadlines are non-binding and not binding, unless they are expressly referred to as "binding". For the scope of the delivery or service, only the order confirmation is decisive.

**2.2.** The documents underlying the contractor's offer, such as illustrations, drawings and weights, have been carefully determined, but only approximately, unless expressly designated as "binding". Changes which only insignificantly modify or improve the services are reserved insofar as they are reasonable for the customer. The contractor is not liable to the customer for the suitability of the deliveries and services for a purpose presented by the customer.

### 3. Co-operation obligations of the customer

**3.1.** The customer appoints a technically competent contact person, who is available to the contractor for necessary information and who can make the decisions necessary for the execution of

the order or can bring it about without delay. The contractor will contact the customer's contact person if and to the extent that the execution of the order requires it.

**3.2.** The customer meets all requirements to enable the order to be executed properly. In particular, the customer will ensure that all required contributions on his part or his vicarious agents are provided in a timely manner, to the required extent and free of charge for the contractor.

**3.3.** The customer is liable for delays or errors in the execution of the order, if these result from his performance data, incorrect or incomplete information or other circumstances for which he is responsible.

#### **4. Supplies and services**

**4.1.** Delivery and performance times are met if the contractor reports readiness for shipment to the customer within the agreed deadlines or coordinates an appointment with the customer to provide the service. Reasonable partial deliveries and customary or reasonable deviations from the order quantities are permissible, unless the partial delivery or partial service is of no use to the customer.

**4.2.** Delivery and service delays due to force majeure and due to events that not only make the delivery significantly more difficult or impossible for the contractor - these include, in particular, breakdowns, strikes, lockouts, official orders, lack of raw materials, energy supply difficulties, mobilization, riots, etc. even if they occur with suppliers of the contractor or their subcontractors - the contractor is not responsible even for bindingly agreed terms and deadlines. They entitle the contractor to postpone the delivery or service for the duration of the hindrance plus a reasonable start-up time or to withdraw from the contract in whole or in part because of the unfulfilled part.

**4.3.** If the hindrance lasts more than three months, the customer is entitled, after a reasonable grace period, to withdraw from the contract in respect of the part not yet fulfilled. If the delivery time is extended or the contractor is released from his obligation, the customer can not derive any claims for damages. The Contractor can only invoke the said circumstances if he informs the Customer immediately.

**4.4.** If the contractor is responsible for the non-observance of bindingly agreed deadlines and deadlines or is in default, the customer is entitled to a compensation for default of 0.5% for each completed week of default, but no more than 5% of the invoice value Delayed deliveries and services.

**4.5.** Both claims for damages of the customer due to delay of the delivery as well as claims for damages in excess of the limits mentioned in No. 4.4 are excluded in all cases of delayed delivery, even after the expiry of a delivery time set by the contractor. This does not apply if liability is mandatory in cases of intent, gross negligence or injury to life, limb or health. The customer can only withdraw from the contract within the scope of the legal provisions, as far as the delay of the delivery is to be represented by the contractor. A change of the burden of proof to the detriment of the customer is not connected with the above regulations.

**4.6.** The customer is obliged to declare within a reasonable period of time whether he withdraws from the contract due to the delay of the delivery or service or insists on the delivery or service.

**4.7.** The contractor will provide his services according to the state of the art according to the task. Customer specifications must be in writing and must be submitted to the contractor before conclusion

of the contract. Orders are executed in compliance with the principles of proper professional practice by qualified personnel or by partners authorized by the contractor. The selection of employees and partners remains reserved to the contractor.

**4.8.** The contractor is entitled to render the service in appropriate parts, as long as this does not entail any unreasonable additional expense for the customer.

**4.9.** If the shipment or delivery is delayed by more than one month after notification of readiness for shipment, the customer may be charged storage fees amounting to 0.5% of the price of the items of delivery for each commenced month, up to a maximum of 5% , The proof of higher or lower storage costs remains to the contracting parties.

## **5. Confidentiality**

The customer is obliged to keep all illustrations, drawings, calculations and other documents and information strictly confidential; They may only be made accessible to third parties with the express written consent of the contractor. The secrecy obligation also applies after completion of this contract. It expires if and to the extent that the manufacturing knowledge contained in the provided illustrations, drawings, calculations and other documents has become generally known. The customer must oblige his employees accordingly.

## **6. Prices, packaging, shipping**

**6.1.** Prices, fees and additional costs are calculated according to the written agreements. If these are not met, the Contractor shall be entitled to charge the list prices applicable on the day of the performance of the current price list or the specific hourly rates of the Contractor. In the absence of specific prices for the relevant service, the market price is agreed. The prices and fees do not include travel costs, travel expenses, packaging costs, freight costs and insurance. These costs will be charged to the customer separately and in accordance with the principles set out in section 6.2. All prices and fees are ex works excluding packaging plus applicable VAT. If an accelerated or other non-standard mode of transport takes place at the request of the customer, the latter shall bear the additional costs arising therefrom.

**6.2.** Shipping is at the risk of the customer. The risk of accidental loss and accidental deterioration shall pass to the customer upon delivery to the carrier, at the latest upon leaving the factory. If the shipment is delayed for reasons for which the contractor is not responsible, the transfer of risk takes place upon notification of readiness for dispatch.

**6.3.** The choice of the appropriate and appropriate means of transport and the mode of shipment is the responsibility of the contractor.

**6.4.** Rental pallets remain the property of the contractor and must be returned in perfect condition with the next delivery. The return of equivalent or similar pallets is permitted. If the return is not made within one month of delivery, the customer will be charged for the cost. The customer is entitled to return transport packaging of our deliveries to the registered office of the contractor. The packaging must be clean, free from foreign matter and sorted by substance. Otherwise, the contractor is entitled to charge the customer for the additional costs incurred during disposal.

## **7. Invoicing, payment, assignment of claims**

**7.1.** Unless otherwise agreed, invoices are due within 30 days of invoicing. Insofar as the service has not yet been accepted as part of a work contract, at least half the invoice amount is due for payment.

**7.2.** Agreed payment deadlines are met if the amount to be paid is available to the contractor on the due date. Checks or bills of exchange are only accepted on account of fulfillment. There is no claim that the contractor accepts the aforementioned means of payment.

**7.3.** The customer is entitled to a right of retention only in respect of the claims from the same contractual relationship, which are undisputed or legally established. In the latter case, he may withhold payment of the remuneration for defects in parts of the delivery or service only in the amount corresponding to the invoice value of the defective delivery or service.

**7.4.** In the event of default of payment by the customer, the contractor is entitled to demand interest at the applicable statutory rate.

**7.5.** In case of doubts about the customer's ability to pay, in particular in case of arrears, suspension of payment, request for a settlement or a moratorium by the customer, the entire claim of the contractor shall become due immediately. The same applies if insolvency proceedings have been opened on the assets of the customer or if the opening was rejected for lack of assets. In this case, the contractor may demand advance payment or securities and revoke payment terms granted. Upon receipt of the payments, the contractor will fully effect his services to the customer. The right to withdraw from the contract remains unaffected.

**7.6.** A claim assignment or inclusion by third parties is permitted.

**7.7.** The customer can only offset with such claims that are undisputed or legally binding.

## **8. Retention of title**

**8.1.** Until the fulfillment of all claims (including any balance claims from current account) that the Contractor is entitled to against the Customer for any legal reason now or in the future, the Contractor shall be granted the following securities, which he will release upon request at his option, as far as their value is the claims sustained by more than 10%.

**8.2.** The goods remain the property of the contractor. Processing or transformation always takes place for the contractor as manufacturer, but without obligation for him. If the (co-) ownership of the contractor lapses due to a connection, it is already agreed that the (co-) ownership of the contractor in the unified object shall pass to the contractor in terms of value (invoice value). The customer stores the (co-) property of the contractor free of charge. Goods to which the contractor is entitled (co-) ownership are referred to below as reserved goods.

**8.3.** The customer is entitled to process and sell the reserved goods in the ordinary course of business as long as he is not in default. Pledging or security transfers are prohibited. For the sake of security, the customer hereby assigns all claims resulting from the resale or any other legal reason (insurance, tort) regarding the reserved goods (including all balance claims from current account) to the contractor

in full. The contractor revocably authorizes him to collect the claims assigned to the contractor for his account in his own name. This collection authorization can only be revoked if the customer does not meet his payment obligations properly.

**8.4.** In the case of access by third parties to the reserved goods, in particular seizures, the customer will point out the property of the contractor and inform him immediately so that the contractor can enforce his property rights. Insofar as the third party is not in a position to reimburse the contractor for any judicial or extrajudicial costs incurred in this connection, the customer shall be liable for this.

**8.5.** In case of breach of contract by the customer - in particular default of payment - the contractor is entitled to withdraw from the contract and to demand the retention of title.

**8.6.** Otherwise, the provisions of the supplementary clause "Extended retention of title" of the "General Terms and Conditions of the Electrical and Electronic Equipment Industry" in the respectively latest version apply.

## **9. Receipt**

The customer may not refuse to accept deliveries due to insignificant defects.

## **10. Warranty**

**10.1.** The deliveries and services owed by the contractor are carefully and professionally provided according to the respective state of the art as well as the relevant safety regulations. Warranty is not covered by any developmentally used, unreleased test products, pre-series and / or prototypes, or services provided by Customer. However, as part of these services, the contractor is committed to ensuring that he works diligently and professionally.

**10.2.** After acceptance of contracts for work, only a complaint of the plant due to hidden defects comes into consideration. After discovery of the defect, it must be reported immediately, but no later than within three working days. If no complaint is made within two weeks of the discovery of the defect, the work is deemed to have been approved by the customer. The complaint must specify the defects in detail and in writing.

**10.3.** For purchase contracts the regulations of § 377 HGB apply. An exemption by the customer is expressly contradicted.

**10.4.** In the context of legitimate complaints, all parts or services are to be repaired, re-delivered or newly provided at the discretion of the contractor, which have a material defect, if the cause was already present at the time of the transfer of risk. The period of limitation for newly delivered goods or newly created works with proper use twelve months after the transfer of risk to the customer, if this is a merchant, unless another period is mandatory by law. Compared to consumers, the statutory provisions apply.

**10.5.** The contractor shall be granted the opportunity to remedy the defect within a reasonable period of time.

**10.6.** Claims by the customer for the expenses required for the purpose of supplementary performance, in particular transport, travel, labor and material costs, are excluded if the expenses increase because the object of the delivery has subsequently been moved to a location other than the customer's branch unless the shipment complies with its intended use.

**10.7.** Recourse claims of the customer against the contractor in accordance with § 478 BGB (recourse of the entrepreneur) exist only insofar as the customer is a consumer and the customer has made with his customer no beyond the statutory warranty claims. For the extent of the recourse claim of the customer against the contractor in accordance with § 478 Abs. 2 BGB further paragraph 10.6 applies accordingly.

**10.8.** The liability for all damages is excluded, as far as they are not explicitly named in the above provisions, even if they did not originate from the delivery item itself. Excluded from this are damages that have arisen due to intent or gross negligence on the part of the owners, executives or vicarious agents of the contractor or that result from culpable violation of essential contractual obligations. In the latter case, however, the liability is only assumed for typically occurring, foreseeable damage. Furthermore, the exclusion of liability does not apply in cases where defects in the delivery item are liable for damage to life, limb or health or damage caused by privately used objects.

**10.9.** The right to warranty expires if the result of the performance or execution or the delivery item of the contractor have been changed. If the customer refuses to inspect the contractor and inspect the deficiencies complained of or he improves without the prior consent of the contractor, the claim for warranty expires, as far as the customer did not have to act immediately because of the risk of deterioration. The warranty does not cover natural wear and tear, including damage resulting from the transfer of risk due to faulty or negligent handling, excessive use, inadequate equipment and electrical and / or mechanical influences beyond the usual use.

**10.10.** If, in exceptional cases, there is a serial defect, the contractor will choose to replace or repair the affected items in his series. If the contractor's product is incorporated in another product, the contracting parties will jointly agree on whether and to what extent the products are to be replaced or repaired by the contractor. In this case, the contractor will reimburse its justified costs after prior agreement and written agreement with the customer. The customer can assert the regulation of this point exclusively within the warranty period. Serial defects are defects in which the materials and components supplied by the contractor have a frequency of errors that are markedly outside of the usual expected values or values specified by the contractor. In particular, a serial error occurs when the number of materials claimed exceeds 8% of the quantity delivered within a period of three months.

## **11. Liability / other claims for damages**

**11.1.** Any further liability than provided for in Section 10 is excluded, regardless of the legal nature of the claim asserted. This applies in particular to claims for damages arising from negligence on conclusion of the contract, due to other breaches of duty or due to tort claims for compensation for property damage pursuant to § 823 BGB.

**11.2.** The limitation under clause 11.1 also applies insofar as the customer demands compensation for useless expenses instead of a claim for compensation for the damage instead of the service.

**11.3.** Insofar as the liability for damages against the customer is excluded or limited, this also applies with regard to the personal liability for damages of employees, employees, employees, representatives and vicarious agents of the contractor.

**11.4.** The compensation for damages incurred by the customer when using test products, pre-series devices and / or prototypes that are still in the development stage, is excluded.

## **12. Resignation / termination**

**12.1.** If the delivery or service becomes impossible for reasons for which the contractor is responsible, the customer is entitled to withdraw from the contract. In case of partial impossibility he is entitled to resign with regard to the part of the contractual services whose fulfillment has become impossible. If partial fulfillment of the contract is no longer of interest to the customer, he may withdraw from the contract altogether. In such cases, the customer is only entitled to claim for damages under the conditions set out in Section 11.

**12.2.** If the contractor is not responsible for the impossibility of fulfilling the contract, the contract will be adjusted as far as economically justifiable. Otherwise both contracting parties may withdraw from the contract in whole or in part.

**12.3.** If the delivery or service becomes retrospectively impossible for reasons for which the customer is responsible, the contractor terminates the contract without a reason for termination or termination or the customer withdraws from the contract, he has the contractor all incurred expenses, costs and other direct and indirect To replace damage.

## **13. Quality control**

The contractor maintains a qualified quality management system DIN EN ISO 9001: 2015.

## **14. Product liability**

Insofar as the contractor is liable for a defect in accordance with the provisions of the Product Liability Act (ProdHaftG), the scope of liability shall be governed exclusively by the provisions of this Act. Any further liability requires an express written agreement.

## **15. Design changes, illustrations and descriptions**

The contractor reserves the right to make design changes at any time without notice; however, he is not obliged to make such changes to products already delivered. The illustrations, dimensions, descriptions, technical details and packaging units given in the respective catalogs are not binding; the contractor reserves the right to make changes.

## **16. Copyrights**

**16.1.** For all documents, objects and the like handed over to the contractor for the purpose of delivery or performance, the customer guarantees that third-party property rights are not violated by this. The contractor will inform the customer about known third party rights. The customer has to indemnify the contractor from claims of third parties and to compensate him for any damage incurred. If the contractor is prohibited from performing, manufacturing or delivering by a third party on the basis of a property right belonging to him, the contractor is entitled, without checking the legal situation, to stop the work and demand compensation for his expenses. Documents, objects and the like provided to the contractor that did not lead to the order will be returned on request for reimbursement. Otherwise, the contractor is entitled to destroy these three months after submission of the offer.

**16.2.** The Contractor reserves all proprietary rights and copyrights to all designs, models, drawings, cost estimates, calculations and similar information of a physical or non-physical nature, including in electronic form. Such information may not be disclosed to third parties.

## **17. Industrial property rights, legal defects**

**17.1.** Unless otherwise agreed in writing, the contractor is obliged to deliver the goods free of industrial property rights and copyrights of third parties (hereinafter: property rights) only in the country of the place of delivery. Insofar as a third party makes legitimate claims against the customer as a result of the infringement of property rights by the contractor, the contractor is liable to the customer within the period specified in section 10.4 as follows:

- a. The Contractor shall, at his own option and expense, obtain a right of use for the deliveries concerned, modify them so that the property right is not violated or exchanged. If this is not possible for the contractor on reasonable terms, the customer is entitled to the statutory right of withdrawal or reduction.
- b. The contractor's obligation to pay damages is governed by Clauses 10 and 11. The contractor's obligations mentioned above shall only exist if the customer immediately informs the contractor in writing about the claims asserted by third parties, does not acknowledge an infringement and informs the contractor. Defensive measures and settlement negotiations remain reserved. If the customer suspends the use of the delivery for reasons of mitigation or other important reasons, he is obliged to inform the third party that the cessation of use does not constitute acknowledgment of an infringement of property rights.

**17.2.** Claims of the customer are excluded insofar as he is responsible for the infringement of property rights.

**17.3.** Claims of the customer are further excluded if the infringement of property rights is caused by special requirements of the customer, by an application not foreseeable by the contractor or by the fact that the delivery is modified by the customer or used together with products not supplied by the contractor.

**17.4.** In the case of infringements of property rights, the provisions of clauses 10.5 and 10.7 shall otherwise apply mutatis mutandis to the claims of the customer regulated in clause 17.1a).

**17.5.** In case of other legal defects, the provisions of Section 10 apply accordingly.

**17.6.** Further claims or claims of the customer against the contractor and its vicarious agents other than those regulated in this clause 17 because of a legal defect are excluded.



## **18. Obligations ElektroG**

**18.1.** The customer accepts the obligation to properly dispose of the delivered goods after use at its own expense in accordance with statutory provisions and indemnifies the contractor from the obligations under § 10 Abs. 2 ElektroG (take back obligation of the manufacturer) and related claims of third parties.

**18.2.** If the customer transfers the goods to commercial third parties and does not contractually oblige them to take over the disposal and further obligation, it is incumbent on the customer to take back the delivered goods after the end of use at his own expense and to dispose of them properly according to the legal regulations. The contractor's entitlement to takeover / exemption by the customer does not expire after two years after the final termination of the use of the device. The two-year limitation period begins at the earliest upon receipt of a written notification from the customer to the contractor about the termination of use.

## **19. Transmission of order**

The contractor is entitled to pass on the order or parts of the order to third parties without the prior written consent of the customer. The contractor is liable for the third party as well as his own vicarious agent.

## **20. Privacy**

The contracting parties will treat personal data of the respective other contracting party in accordance with the Federal Data Protection Act.

## **21. Transfer of Risk**

The risk also passes to the customer for carriage-paid deliveries as soon as they have been brought to the shipping or picked up by the contractor. At the express written request and at the expense of the customer, deliveries by the contractor against the usual transport risks are insured.

## **22. Cessation of payment, insolvency**

If the customer discontinues his payments, orders a provisional insolvency administrator to open insolvency proceedings against his assets, or if he has bills or check protests against him, the contractor is entitled to rescind the contract in whole or in part, without any claims being made against the contractor can be. If the contractor withdraws from the contract, the deliveries and services performed up to that point will be invoiced at contract prices.

### **23. Export regulations**

The customer is hereby informed that the export of the delivered products, information, software and documentation (collectively also referred to as products) according to the relevant export regulations of the Federal Republic of Germany, the European Union and / or the United States of America - z. B. due to their nature or their intended use or end-use - may be subject to authorization or may be excluded and violations are criminally armed. The customer is therefore responsible for strictly adhering to all applicable national or international export regulations and for obtaining any necessary permits. In this regard, the customer undertakes in particular to check and ensure that

- a. if the products may only be delivered with the approval of the particular national authorities in particular for armament-relevant, nuclear-technical or weapon-technical use or to a military receiver, this authorization is obtained in advance;
- b. no companies and persons named in the Denied Persons List (DPL) of the US Department of Commerce are supplied with US originating goods, software and technology;
- c. no companies or persons named in the Special Designated Nationals and blocked Persons list of the US Treasury or the EU terror list are served;
- d. the relevant UN resolutions, EC regulations and German laws as well as lists of the competent German authorities are observed;
- e. no deliveries to persons listed on the Unverified List of the US Department of Commerce.

The contractor identifies information, software and documentation regarding the licensing requirements according to the German and the EU export list as well as the US Commerce Control List. In the event of Customer's breach of the above obligations, Customer will indemnify the Contractor against all claims upon first request and compensate for all damages that the Supplier or Licensor of the Contractor, third parties or governmental and / or international authorities or organizations may assert against the Contractor do.

### **24. Contract language, correspondence**

The contract language is German. All correspondence and all other documents and documents must be in German. This also applies to the entire remaining documentation. Insofar as the contracting parties also use a different language, the German text takes precedence.

### **25. Severability**

Should individual parts of these General Terms of Delivery and Payment be or become invalid, the validity of the remaining provisions shall not be affected thereby; the same applies to the filling of gaps in these General Terms of Delivery and Payment.

## **26. Jurisdiction, applicable law**

**26.1.** The exclusive place of jurisdiction is Frankfurt a.M., if the customer is a merchant. However, the contractor reserves the right to assert its claims at any other permissible place of jurisdiction.

**26.2.** In addition, only un-unified German law applies, namely the BGB / HGB. The provisions of the Vienna UN Convention of 11 April 1980 on Contracts for the International Sale of Goods (UN Sales Convention) are excluded.

Sulzbach, 1.1.2018

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