

1 Validity and conclusion of the contract

These General Terms of Delivery ('GTD') apply to the entire business relationship between the customer and Brütsch Elektronik AG (hereinafter referred to as 'BREL'). In the event of an order, these GTD become an integral part of the contract. Changes to these GTD or, respectively, other GTD of the customer are only effective if BREL confirms these in writing.

Offers from BREL are non-binding. A legally binding contract enters into force only with the issue of the written order confirmation by BREL.

2 Means of communication

The parties may communicate with each other verbally, in writing or via electronic data exchange.

Letters, minutes, drawings, plans, faxes, emails, as well as other forms of transmission which provide evidence through text or images, are deemed as valid written form. 'Signed' means that a handwritten signature or a correspondingly qualified electronic signature is required.

3 Scope of services

As regards the scope and execution of the products and services, the order confirmation (or the BREL offer in case of the lack of the latter) is authoritative. Services that are not expressly guaranteed therein (namely the documentation, programming, customising, installation, commissioning, training and application support) are not part of the scope of services.

4 Place of fulfilment and transport

Unless a particular place of performance has been arranged or arises from the nature of the business, BREL may provide the products and services at its domicile.

If BREL delivers the products to another location, the customer shall bear the risks and costs of the transport as well as the expenses of the packaging and customs clearance, even if BREL organises the transport.

If BREL provide services at another location, the customer shall reimburse the travel and subsistence costs.

5 Information obligation of the customer

The customer must call BREL's attention to special technical requirements as well as to the statutory, official and other regulations at the intended destination in a timely manner, insofar as they are relevant.

6 Documentation

If the documentation is not included in the scope of services, the customer may obtain it in a standard version against payment. Should the customer require documentation in a special format or in non-existent languages, this is to be agreed upon separately.

Deviations in the documentation—namely in terms of descriptions and illustrations—are permissible, provided that the documents fulfil their purposes.

7 Software and know-how

Subject to any contrary license conditions, the customer and its buyers only have the right to use the supplied software, the work results, the know-how, the data carriers and the documentation with the corresponding products; independent sale, distribution, reproduction, extension or modification are not permitted.

The ownership and the right to further use remain with BREL or its licensors, even if the customer subsequently changes the software, work results or know-how records.

The customer shall take the necessary measures to protect the software, work results and documentation against unauthorised access or misuse by unauthorised persons.

The customer may create the necessary backup copies. It must mark these accordingly, and store these separately in a safe place.

8 Use

The customer is responsible for the use of the products and services as well as for the combination with other commodities, namely information technology or electrical equipment and systems. It therefore has to exercise the necessary care as well as to follow all instructions indicated by the manufacturer and by BREL.

The customer is obliged to pass on all safety-relevant information to the user in suitable form.

9 Dates

Only dates confirmed in writing are binding. Such dates shall be reasonably extended

- if BREL does not receive information which it needs for performance in a timely manner, or if the customer changes it subsequently;
- if the customer is behind schedule with the works to be executed thereby or if it is in arrears with the fulfilment of its contractual obligations, in particular if it does not comply with terms of payment;
- if obstacles occur that are beyond the responsibility of BREL, including natural disasters, mobilisation, war, riots, epidemics, accidents and illness, significant malfunctions, labour disputes, late or faulty deliveries and governmental measures.

BREL may carry out partial deliveries.

In the event of delays, the customer must grant BREL a reasonable period for subsequent performance.

If BREL demonstrably bears the fault for the delay, the customer is entitled to compensation for the actual damage irrespective of subsequent performance or termination of contract. Compensation for damages is limited to one percent per week, up to a maximum of ten percent, based on the value of the delayed delivery. Further claims arising from delivery delays are excluded.

10 Acceptance

Unless a special acceptance procedure has been agreed upon, the customer shall inspect all products and services itself.

Immediately upon receipt, the customer shall check the delivered products with regard to the identity, quantity, damage in transit and accompanying

documents. The customer shall also inspect the products and services for further defects as soon as possible.

The customer must report all defects in writing immediately. Products and services are considered as accepted when they are used commercially for over twenty working days.

Hidden defects that could not have been discovered during a standard inspection must be reported in writing immediately upon discovery.

11 Warranty

BREL vouches that it shall apply the necessary care, and that their products and services meet the guaranteed characteristics.

BREL does not guarantee the results that the customer wishes to achieve with the products and services. BREL is also not liable for the damages resulting from their use.

Errors and disruptions that are beyond the control of BREL are excluded from the liability for defects, including natural wear and tear, force majeure, improper handling, intervention by the customer or third parties, excessive demands, unsuitable operating means, faults caused by other machines and systems, unstable power supplies, special climatic conditions or unusual environmental influences.

The customer shall not make any claims due to a negligible defect. Defects are deemed negligible namely if they do not affect the use of products and services.

In the case of significant defects, the customer must grant BREL a reasonable grace period for rectification (repair or replacement). BREL shall remedy the defects either at its own premises or at those of the customer at its discretion, whereupon it must be granted free access. The costs for disassembly and assembly, transport, packaging, travel and accommodation are the responsibility of the customer. Replaced parts shall become the property of BREL.

The warranty period is twelve months. It shall not be interrupted in case of the acknowledgement or elimination of a defect.

Should the remedy of the defect fail, the customer is entitled to a reasonable price reduction. It may only declare withdrawal from the contract if the acceptance of the products or services is unreasonable.

If BREL demonstrably bears the fault for the defect, the customer is entitled to compensation for the actual damage irrespective of the correction of defects, price reductions or termination of the contract – however, this shall not be more than ten percent of the value of the defective delivery. The replacement of indirect damages, such as the loss of profit and other financial losses in particular, is completely excluded.

12 Further liability

In the framework of its liability insurance, BREL is liable for personal injury and property damage which the customer has demonstrably suffered through the fault of BREL. Further claims, namely for the behaviour of auxiliary persons, are excluded.

13 Prices and terms of payment

Unless otherwise stated, prices are in Swiss francs excluding VAT, taxes, customs duties, transport, packaging, insurance, permits, notarisation, installation, commissioning, training and application support. They are payable net within thirty days of invoicing.

If the circumstances underlying the pricing, in particular currency parities, material prices, energy costs or state/official taxes, levies, fees, etc., change significantly between the time of the offer and the delivery date, BREL shall be entitled to adjust prices and conditions to the changed circumstances.

The customer may settle with counterclaims only with the written consent of BREL.

If the customer does not meet the payment date, it shall be liable to a default interest of five percent per annum from the due date without receipt of any warning.

In case of late payment, BREL may

- declare that all payments from the business relationship with the customer, even if they are not from the same legal relationship, are due immediately;
- set a reasonable grace period for the customer concerning all payments due and, if the customer does not settle the entire amount due within that period, declare the termination of the contracts, and reclaim the delivered products and services;
- make the further fulfilment of services dependent (including the remedy of defects) on suitable collateral from the customer, including advance payments, even if such does not arise from the same legal relationship.

14 Confidentiality

Neither party shall disclose any information to third parties regarding the business areas of the other party which is not generally available or not generally known; they shall make every effort to prevent third parties from gaining access to this information. On the other hand, each party may continue to use the knowledge in their inherent activities which it acquired over the course of the business dealings.

The parties shall also transfer this confidentiality obligation to their employees, members of staff and agents.

15 Export

The customer is responsible for compliance with all relevant domestic and foreign export regulations.

16 Choice of law and place of jurisdiction

This legal relationship is subject to Swiss law.

The place of jurisdiction is the domicile of BREL in Beringen. BREL may also invoke court proceedings at the domicile of the customer.