

General Terms of Delivery

issued by the Austrian Electrical and Electronics Industry Association (FEEL)



1. Scope

- 1.1. These General Terms shall govern legal transactions between business enterprises, namely the delivery of commodities and, mutatis mutandis, the rendering of services. Software transactions are with precedence governed by the Software Conditions issued by the Austrian Electrical and Electronics Industry Association, assembly work by the Terms and Conditions for Assembly Work issued by the Austrian Power Current and Light Current Engineering Industry and/or (where applicable) the Terms and Conditions for the Assembly of Electrical Equipment used in Medicine issued by the Austrian Electrical and Electronics Industry (the current versions are available at www.feel.at).
- 1.2. Any departure from the terms and conditions mentioned in 1.1 above shall be valid only if expressly accepted in writing by Seller.

2. Submission of offers

- 2.1. Seller's offers shall be deemed offers without engagement.
- 2.2. Tender documents and project documentation must not be duplicated nor made available to third parties without the permission of Seller. They may be claimed back at any time and shall be returned to Seller immediately if the order is placed elsewhere.

3. Conclusion of contract

- 3.1. The contract shall be deemed concluded upon written confirmation by Seller of an order received or upon dispatch of a delivery.
- 3.2. Particulars appearing in catalogues, folders etc. as well as any oral or written statements shall only be binding if Seller makes express reference to them in the confirmation of the order.
- 3.3. Subsequent amendments of or additions to the contract shall be subject to written confirmation.

4. Prices

- 4.1. Prices shall be quoted ex works or ex Seller's warehouse without VAT, packing and packaging, loading, disassembly, take-back and proper recycling and disposal of waste electrical and electronic equipment for commercial purposes as defined by the Ordinance Regulating the Handling of Waste Electrical Equipment. Buyer shall be liable for any and all charges, taxes or other duties levied in respect of delivery. If the terms of delivery include transport to a destination designated by Buyer, transport costs as well as the cost of any transport insurance desired by Buyer shall be borne by the latter. Delivery does not, however, include unloading and subsequent handling. Packaging materials will be taken back only by express agreement.
- 4.2. Seller reserves the right to modify prices if the order placed is not in accordance with the offer submitted.
- 4.3. Prices are based on costs obtaining at the time of the first quotation. In the event that the costs have increased by the time of delivery, Seller shall have the right to adjust prices accordingly.
- 4.4. In carrying out repair orders, Seller shall provide all services deemed expedient and shall charge Buyer for the same on the basis of the work input and/or expenditures required. The same holds for any services or additional services the expediency of which becomes apparent only as the repair order is executed. In such an event special notification of Buyer shall not be required.
- 4.5. Expenses for estimates of costs of repair and maintenance or for expert valuations shall be invoiced to Buyer.

5. Delivery

- 5.1. The period allowed for delivery shall commence at the latest of the following dates:
 - a) the date of order confirmation by Seller;
 - b) the date of fulfilment by Buyer of all the conditions, technical, commercial and other, for which he is responsible;
 - c) the date of receipt by Seller of a deposit or security due before delivery of the goods in question.
- 5.2. Buyer shall obtain whatever licences or approvals may be required from authorities or third parties for the construction of plant and equipment. If the granting of such licences or approvals is delayed for any reason the delivery period shall be extended accordingly.
- 5.3. Seller may carry out, and charge Buyer for, partial or advance deliveries. If delivery on call is agreed upon, the commodity shall be deemed called off at the latest one year after the order was placed.
- 5.4. In case of unforeseeable circumstances or circumstances beyond the parties control, such as all cases of force majeure, which impede compliance with the agreed period of delivery, the latter shall be extended in any case for the duration of such circumstances; these include in particular armed conflicts, official interventions and prohibitions, delays in transport or customs clearance, damages in transit, energy shortage and raw materials scarcity, labour disputes, and default on performance by a major component supplier who is difficult to replace. The aforesaid circumstances shall be deemed to prevail irrespective of whether they affect Seller or his subcontractor(s).
- 5.5. If a contractual penalty for default of delivery was agreed upon by contracting parties when the contract was concluded, it shall be executed as follows, and any deviations concerning individual items shall not affect the remaining provisions: Where delay in performance can be shown to

have occurred solely through the fault of Seller, Buyer may claim for each completed week of delay an indemnity of at most one half of one per cent, a total of no more than 5 %, however, of the value of that part of the goods to be delivered which cannot be used on account of Seller's failure to deliver an essential part thereof, provided the Buyer has suffered a damage to the aforesaid extent. Assertion of rights of damages exceeding this extent is precluded.

6. Passage of risk and place of performance

- 6.1. Unless otherwise agreed, the delivery of goods is considered sold EXW in accordance with INCOTERMS® 2010.
- 6.2. For services, the place of performance shall be the place indicated in the written order confirmation, secondary to that at which the service is actually rendered by Seller. The risk in respect of such services or any part thereof shall pass to Buyer at the time the services have been rendered.

7. Payment

- 7.1. Unless otherwise agreed, one third of the purchase price shall fall due at the time of receipt by Buyer of the order confirmation of Seller, one third after half the delivery period has elapsed and the balance at the time of delivery. Irrespective thereof the turnover tax comprised in the amount of the invoice shall be paid within 30 days of the invoice date. If bankruptcy proceedings are instituted against the assets of Buyer or if an application for bankruptcy proceedings is not granted for insufficiency of assets, deliveries shall only be made against cash in advance.
- 7.2. In the case of part settlements the individual part payments shall fall due upon receipt of the respective invoices. The same shall apply to amounts invoiced for additional deliveries or resulting from additional agreements beyond the scope of the original contract, irrespective of the terms of payment agreed upon for the principal delivery.
- 7.3. Payment shall be made without any discount free Seller's domicile in the agreed currency. Drafts and checks shall be accepted on account of payment only, with all interest, fees and charges in connection therewith (such as collection and discounting charges) to be borne by Buyer.
- 7.4. Buyer shall not be entitled to withhold or offset payment on the grounds of any warranty claims or other counterclaims.
- 7.5. Payment shall be deemed to have been effected on the date at which the amount in question is at Seller's disposal.
- 7.6. If Buyer fails to meet the terms of payment or any other obligation arising from this or other legal transactions, Seller may without prejudice to his other rights
 - a) suspend performance of his own obligations until payments have been made or other obligations fulfilled, and exercise his right to extend the period of delivery to a reasonable extent,
 - b) call in debts arisen from this or any other legal transactions and charge default interest amounting to 1.25 % per month plus turnover tax for these amounts beginning with the due dates, unless Seller proves costs exceeding this.
 - c) only perform other legal transactions against cash in advance in the case of qualified insolvency, in other words, following two delays in payment.

In any case Seller has the right to invoice all expenses arising prior to a lawsuit, especially reminder charges and lawyer's fees.

- 7.7. Discounts or bonuses are subject to complete payment in due time.
 - 7.8. Seller retains title to all goods delivered by him until receipt of all amounts invoiced including interests and charges. Buyer herewith assigns his claim out of a resale of conditional commodities, even if they are processed, transformed or combined with other commodities, to Seller to secure the latter's purchase money claim. In the case of resale granting respite Buyer shall have the power of disposal of the product under retention of ownership only with the proviso that upon reselling Buyer notifies the secondary buyer of the assignment for security or enters the assignment in his account books. Upon request Buyer has to notify the assigned claim and the debtor thereof to Seller, and to make all information and material required for his debt collection available and to notify the assignment to the third-party debtor. If the goods are attached or otherwise levied upon, Buyer shall draw attention to Seller's title and immediately inform Seller of the attachment or levy.
- ## 8. Warranty and acceptance of obligation to repair defects
- 8.1. Once the agreed terms of payment have been complied with, Seller shall, subject to the conditions hereunder, remedy any defect existing at the time of acceptance of the article in question whether due to faulty design, material or manufacture, that impairs the functioning of said article. From particulars appearing in catalogues, folders, promotional literature as well as written or oral statements which have not been included in the agreement no warranty obligations may be deduced.
 - 8.2. Unless special warranty periods operate for individual items the warranty period shall be 12 months. These conditions shall also apply to any goods supplied, or services rendered in respect of goods supplied, that are firmly attached to buildings or the ground. The warranty period begins at the point of passage of risk acc. to paragraph 6.

- 8.3. For improved or exchanged parts, the warranty period shall start again, but shall end in any case 6 months after the original warranty period has expired.
- 8.4. If delivery or the performance of services is delayed for reasons outside the control of Seller, the warranty period shall begin 2 weeks after Seller is ready to deliver or perform services.
- 8.5. The foregoing warranty obligations are conditional upon the Buyer giving within a reasonable period notice in writing of any defects that have occurred and such notice reaching the Seller. Buyer shall prove within a reasonable period the presence of a defect, in particular he shall make available within a reasonable period to Seller all material and data in his possession. Upon receipt of such notice Seller shall, in the case of a defect covered by the warranty under 8.1 above, have the option to replace the defective goods or defective parts thereof or else to repair them on Buyer's premises or have them returned for repair, or to grant a fair and reasonable price reduction.
- 8.6. Any expenses incurred in connection with rectifying defects (e. g. expenses for assembly and disassembly, transport, waste disposal, travel and site-quarters time) shall be borne by Buyer. For warranty work on Buyer's premises Buyer shall make available free of charge any assistance, hoisting gear, scaffolding and sundry supplies and incidentals that may be required. Replaced parts shall become the property of Seller.
- 8.7. If an article is manufactured by Seller on the basis of design data, design drawings, models or other specifications supplied by Buyer, Seller's warranty shall be restricted to non-compliance with Buyer's specifications.
- 8.8. Seller's warranty obligation shall not extend to any defects due to assembly and installation work not undertaken by Seller, inadequate equipment, or due to non-compliance with installation requirements and operating conditions, overloading of parts in excess of the design values stipulated by Seller, negligent or faulty handling or the use of inappropriate materials, nor for defects attributable to material supplied by Buyer. Nor shall Seller be liable for damage due to acts of third parties, atmospheric discharges. Excess voltage and chemical influences. The warranty does not cover the replacement of parts subject to natural wear and tear. Seller accepts no warranty for the sale of used goods.
- 8.9. The warranty shall lapse immediately if, without written consent of Seller, Buyer himself or a third party not expressly authorised undertakes modifications or repairs on any items delivered.
- 8.10. Claims acc. to § 933b ABGB are struck by the statute of limitation with lapse of the period mentioned under point 8.2.
- 8.11. The provisions of sub-paragraphs 8.1 to 8.10 shall apply, mutatis mutandis, to all cases where the obligation to repair defects has to be accepted for other reasons laid down by law.
- 9. Withdrawal from contract**
- 9.1. Buyer may withdraw from the contract only in the event of delays caused by gross negligence on the part of Seller and only after a reasonable period of grace has elapsed. Withdrawal from contract shall be notified in writing by registered mail.
- 9.2. Irrespective of his other rights Seller shall be entitled to withdraw from the contract
- if the execution of delivery or the inception or continuation of services to be rendered under the contract is made impossible for reasons within the responsibility of Buyer and if the delay is extended beyond a reasonable period of grace allowed;
 - if doubts have arisen as to Buyer's creditworthiness and if same fails, on Seller's request, to make an advance payment or to provide adequate security prior to delivery, or
 - if, for reasons mentioned in 5.4, the period allowed for delivery is extended by more than half of the period originally agreed or by at least 6 months, or
 - if Buyer does not or does not properly meet the obligations imposed as per paragraph 13.
- 9.3. For the reasons given above withdrawal from the contract shall also be possible in respect of any outstanding part of the delivery or service contracted for.
- 9.4. If bankruptcy proceedings are instituted against Buyer or an application for bankruptcy proceedings is not granted for insufficiency of assets, Seller may withdraw from the contract without allowing a period of grace. If this withdrawal is taken, it shall take effect immediately upon the decision that the business will not be continued. If the business will be continued, a withdrawal shall not take effect until 6 months after the institution of bankruptcy proceedings or after an application for bankruptcy proceedings has not been granted for insufficiency of assets. In any case, the contract shall be terminated immediately unless the bankruptcy law to which Buyer is subject conflicts with this or if termination of the contract is necessary to prevent significant damages to Seller.
- 9.5. Without prejudice to Seller's claim for damages including expenses arising prior to a lawsuit, upon withdrawal from contract any open accounts in respect of deliveries made or services rendered in whole or in part shall be settled according to contract This provision also covers deliveries or services not yet accepted by Buyer as well as any preparatory acts performed by Seller. Seller shall, however, have the option alternatively to require the restitution of articles already delivered.
- 9.6. Withdrawal from contract shall have no consequences other than those stipulated above.
- 9.7. The assertion of claims on the ground of *laesio enormis*, error, or lapse of purpose by the Buyer is excluded.
- 10. Disposal of waste electrical and electronic equipment**
- 10.1. The Buyer of electrical/electronic equipment for commercial purposes, incorporated in Austria, is responsible for the financing of the collection and treatment of waste electrical and electronic equipment as defined by the Ordinance Regulating the Handling of Waste Electrical Equipment, if he is himself the user of the electrical/electronic equipment. If the Buyer is not the end user, he shall transfer the full financial commitment to his customer by agreement and furnish proof thereof to the Seller.
- 10.2. The Buyer incorporated in Austria shall ensure that the Seller is provided with all information necessary to meet the Seller's obligations as manufacturer/importer, particularly according to §§ 11 and 24 of the Ordinance Regulating the Handling of Waste Electrical Equipment and the Waste Management Act.
- 10.3. The Buyer incorporated in Austria is liable vis-à-vis the Seller for any damage and other financial disadvantages incurred by Seller due to Buyer's failure to meet or fully meet his financing commitment or any other obligations according to Article 10. The Buyer shall bear the burden of proof of performance of this obligation.
- 11. Seller's liability**
- 11.1. Outside the scope of the Product Liability Act, Seller shall be liable only if the damage in question is proved to be due to intentional acts or acts of gross negligence, within the limits of statutory provisions. Seller's total liability in cases of gross negligence is limited to the net value of the order or EUR 500,000, depending on which amount is lower.
- 11.2. For each incident of damage, Seller shall be liable for 25% of the net value of the order or EUR 125,000, depending on which amount is lower.
- 11.3. Seller shall not be liable for damage due to acts of ordinary negligence nor for consequential damages or damages for pure economic loss, indirect damages, loss of production, financing costs, costs for replacement energy, loss of energy, data or information, loss of profits, loss of savings or interest, or damage resulting from third-party claims against buyer.
- 11.4. Seller shall not be liable for damages in case of non-compliance with instructions for assembly, commissioning and operation (such as are contained in instructions for use) or non-compliance with licensing requirements.
- 11.5. Claims that exceed the contractual penalties that were agreed on are excluded from the respective title. The provisions of paragraph 11 apply exclusively for all claims by Buyer against Seller, regardless of the legal basis or entitlement, and also apply to all employees, subcontractors and sub-suppliers of Seller.
- 12. Industrial property rights and copyrights**
- 12.1. Buyer shall indemnify Seller and hold him harmless against any claims for any infringement of industrial property rights raised against him if Seller manufactures an article pursuant to any design data, design drawings, models or other specifications made available to him by Buyer.
- 12.2. Design documents such as plans and drawings and other technical specifications as well as samples, catalogues, prospectuses, pictures and the like shall remain the intellectual property of Seller and are subject to the relevant statutory provisions governing reproduction, imitation, competition etc. The provisions of 2.2 above shall also cover design documents.
- 13. Compliance with export provisions**
- 13.1. When passing on goods delivered by Seller to third parties (as well as any related documentation, regardless of the method of provision or the services performed by Seller [including technical support of any kind]), Buyer must comply with the applicable regulations of national and international (re-)export provisions. In any case, Buyer must observe the (re-)export provisions of Seller's country of residence, the European Union and the United States of America.
- 13.2. If necessary for export controls, Buyer must provide Seller with all necessary information immediately after being requested to do so, for example, information about the final recipient, final destination and purpose of the goods or services.
- 14. General**
- Should individual provisions of the contract or of these provisions be invalid the validity of the other provisions shall not be affected. The invalid provision shall be replaced by a valid one, which comes as close to the target goal as possible.
- 15. Jurisdiction and applicable law**
- Any litigations arising under the contract including litigations over the existence or non-existence thereof shall fall within the exclusive jurisdiction of the competent court at Seller's domicile; the competent court of the Bezirksgericht Innere Stadt, Vienna, shall have exclusive jurisdiction if Seller is domiciled in Vienna. The contract is subject to Austrian law excluding the referral rules. Application of the UN Convention on Contracts for the International Sale of Goods is renounced.
- 16. Proviso**
- The execution of the contract by Seller is subject to the condition that there are no obstacles standing in the way of execution due to national or international (re-)export provisions, and especially no embargos and/or other sanctions.



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Eaton
Electrical Sector
Eaton Industries (Austria) GmbH

Selling Country – Austria
Additional Terms & Conditions of
EATON companies in Austria –
sale of goods

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I. General provisions

1. Goods and services (hereinafter referred to as the Goods) from the above mentioned EATON companies (herein referred to as Eaton or Supplier) shall be provided exclusively in accordance with the General Terms of Delivery issued by the Austrian Electrical and Electronics Industry Association (hereinafter referred to as the FEEI Conditions), supplemented by these additional terms and conditions of EATON companies in Austria (hereinafter jointly referred to as the Business Conditions).
2. By accepting an offer or quotation, an order confirmation or, on placement of an order or acceptance of Goods from EATON whatever occurs first, the Purchaser acknowledges that the Business Conditions apply to all business relations with EATON. Once agreed upon, the Business Conditions shall also be deemed to have been agreed upon for future agreements.
3. The business conditions of the Purchaser or a third party shall not apply, even if Eaton does not separately object to their validity on a case-by-case basis or makes reference to different terms or conditions might it be those of the Purchaser or those of a third party. The same shall also apply if Eaton, in awareness of the Purchaser's general business conditions, carries out the delivery to said party unconditionally.
4. No variation to these Terms shall be binding unless agreed in writing by an authorized representative of Eaton.

II. Changes and amendments to the FEEI Conditions

The following changes and amendments to the FEEI Conditions shall apply:

1. Number 7.8 of the FEEI Conditions shall be changed as follows: The delivered goods shall remain the Supplier's property until all outstanding payments in respect of such supplies are made in full. Deviating to section 7.1 the start of the period for calculating the

due date of an invoice shall be the respective invoice date.

2. Number 6 of the FEEI conditions shall be changed as follows: Unless otherwise specified by EATON in writing, delivery shall be made CPT (Incoterms 2010) for road freight and parcel deliveries at the Purchaser's warehouse; or for ocean and air freight deliveries, FCA (Incoterms 2010) at the origin loading port or warehouse as agreed between the Parties in writing.
3. Orders less than 100,00 (one-hundred) EUR will be assessed a shipping and handling charge of 10,00 (ten) EUR, unless noted differently by Eaton on Acceptance. For orders of PQ products less than 500,00 (five-hundred) EUR will be assessed a shipping and handling charge of 50,00 (fifty) EUR.
4. The dispensation of packaging of all products has already been obtained under the license number ARA 3115.

III. Technical information, catalogue, information

Considering the numerous devices, materials and programs brought into the market and the different machining and processing methods, all of these beyond the control of the Supplier, the Supplier does not provide any guarantees of the fitness for purpose of the respective Goods. All drawings, descriptive matter, specifications and advertising issued by Supplier and any descriptions or illustrations contained in Supplier's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Products described in them. They will not form part of any agreement in general or the warranty provided under the Business Conditions. A warranty for consequential damage is excluded, even for exceptionally granted guarantees. Eaton may make any changes in the specifications, design or materials of the Supplies which are required to conform with any applicable safety or other statutory requirements, or where the Supplies are to be sup-

plied to Eaton's specifications, which do not in Eaton's reasonable opinion materially affect the quality or performance of the Supplies.

IV. Instructions and product monitoring

1. The Purchaser shall carefully follow the product instructions issued by the Supplier and shall forward them to its customers with specific reference to observe them and oblige its customers to draw up a corresponding agreement with their own customers. This shall also apply when the Goods are combined, amalgamated, mingled or processed with other items that are not the property of the Supplier.
2. Should the Purchaser fail to fulfill its obligations under number IV clause 1, and if corresponding product liability claims are enforced against the Supplier, the Purchaser shall hold harmless the Supplier from the claims As far as the Purchaser contributed to these claims this will be taken into consideration pursuant to Sec. 1304 ABGB.
3. The Purchaser shall monitor the Goods and their application. This shall also apply following resale, be it in unprocessed, processed, combined, amalgamated or mingled form. This duty specifically addresses the discover age of harmful or detrimental characteristics of the Good or an application considered to be hazardous or having hazardous consequences. The Supplier must immediately be informed of any respective discovery.

V. Export Regulations and Anti-Corruption

Number 13 of the FEEI Conditions shall be amended as followed:

1. The performance of any obligations under these Terms is conditional upon that no hindrances attributable to applicable local, United Nations (UN) or United States of America (US) or otherwise applicable national, European Union or international rules of foreign trade law or any sanctions or any embargoes exist.

2. The Purchaser shall comply with all laws as set forth in clause 1. The Purchaser shall not take any action which could place Eaton or any other associated company in jeopardy of breaching or violating any such laws, regulations, provisions and/or acts or any interpretations thereof.

3. The Purchaser agrees to comply fully with all applicable anti-corruption laws and regulations, including (but not limited to) those in the jurisdiction in which the Purchaser is registered, the U.S. Foreign Corrupt Practices Act and the U.K. Bribery Act. The Purchaser agrees to comply with Eaton's Worldwide Anti-Corruption Policy and Worldwide Gift & Entertainment Policy, copies of which are available on request.

4. The Purchaser shall observe at all times Eaton's Code of Ethics and related policies, copies of which are available upon request.

5. The Purchaser agrees to indemnify, defend and hold Eaton harmless from any breach of the Purchaser's obligations under this clause V.

VI. Intellectual Property Rights

Number 12 of the FEEI conditions shall be amended as follows:

1. Each Party shall remain the owner of its Background IP and nothing contained in these terms shall imply any transfer of title of Background IP. Eaton shall be the sole owner of all Foreground IP and shall have full title to such rights.

2. The Purchaser shall not do or authorise any third person to do any act which would or might damage or be inconsistent with the Trademarks (which term for purposes of these Terms shall include but not be limited to trademarks, trade names, service marks, logo marks, trade dress other trade names, whether registered or unregistered) used by Eaton in relation to the Supplies or to the goodwill associated therewith and, in particular, will not do or authorise the alteration, obliteration, covering up or incorporation of



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Eaton
Electrical Sector
Eaton Industries (Austria) GmbH

Selling Country – Austria Additional Terms & Conditions of EATON companies in Austria – sale of goods

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other marks (in whole or in part) on to the Supplies. The Purchaser shall not use or authorise any third person to use the Trademarks used by Eaton in relation to the Supplies on any stationery, advertising, promotion or selling material other than the Supplies or other such materials supplied by Eaton to the Purchaser. All advertising, promotion and selling materials supplied by Eaton to the Purchaser shall remain the property of Eaton and the Purchaser shall not permit any other person to make use thereof. The use in any form of the name "EATON" or Eaton's logo in the official name, company name, trading or business name, domain name or other similar name of the Purchaser requires the prior written approval of Eaton.

3. The Purchaser agrees to inform Eaton promptly about any infringement of any of Eaton's trademarks or other Intellectual Property Rights or of any act of unfair competition of which the Purchaser has knowledge. Eaton and the Purchaser shall then jointly decide on appropriate action. The Purchaser agrees to assist in every way possible in legal actions taken by Eaton or its affiliated entities in this regard.

4. If any claim is made against the Purchaser that the Supplies infringe or that their use or resale infringes the rights of any third party, Eaton may (at its option) either secure the Purchaser's right to continue to use the Supplies or replace or modify the Supplies to make them non-infringing, or if neither of these alternatives is reasonably available to Eaton, refund the purchase price.

5. In these Terms:

5.1 "Background IP" means any intellectual property and Intellectual Property Rights existing before the date of the Acceptance, and any Intellectual Property Rights generated after the date of Acceptance but outside the scope of these Terms;

5.2 "Foreground IP" means all intellectual property and Intellectual Property Rights generated under these Terms; and

5.3 "Intellectual Property Rights" means any intellectual and industrial property rights including, but not limited to, copyright, moral rights and neighbouring rights, all rights in relation to: inventions (including patent rights and utility models), trademarks, confidential information (including trade secrets and know how), drawings, prototypes, algorithms, software, mask works and semiconductor topographies and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic field, afforded by law anywhere in the world whether registered or unregistered or capable of registration and all applications therefore.

VII. Confidentiality and Announcements

1. "Confidential Information" means all information (whether communicated in writing, verbally, electronically or by any other means and whether communicated directly or indirectly), including information in connection with these Terms and the transactions contemplated therein, or any related agreement, which by its nature is intended to be for the knowledge of the receiving Party alone, which is marked as "confidential" or "proprietary" or which is otherwise confidential, and all information concerning the business transactions and the financial arrangements of any Party with any person with whom that Party is in a confidential relationship with regard to the matter in question.

2. Neither Party, including but not limited to its affiliated entities, owners, managers and employees shall, without the prior written consent of the disclosing Party, for any purpose other than the proper performance of its obligations under these Terms make use of or disclose or permit the use or disclosure to any third party of any trade secrets or other Confidential Information, whether relating to the method of opera-

tion or business of the other Party or the Supplies which it may receive or obtain either directly or indirectly, or make any public announcement, communication or circular concerning the transactions to which these Terms shall apply, but shall not apply to any information which (i) was publicly known at the time of disclosure to the receiving Party or becomes publicly known through no fault of the receiving Party subsequent to the time of communication thereof to the receiving Party; (ii) was in the receiving Party's possession free from any obligation of confidence at the time of communication thereof to the receiving Party; (iii) is developed independently by the receiving Party or its Affiliates, and without reference to any of the disclosing Party's Confidential Information or other information has disclosed in confidence to any third party, as evidenced by contemporaneous written records; (iv) required by law, by a rule of a listing authority or stock exchange to which either Party is subject or submits provided that only such Confidential Information as is strictly required is disclosed; or (v) is rightfully obtained by the receiving Party from third party authorised to make disclosure thereof without restrictions.

3. A disclosing Party has no liability or responsibility for errors or omissions in, or any decisions made by the receiving Party in reliance on any Confidential Information disclosed under these Terms. No warranties of any kind (whether express, implied or statutory) are made in connection with the Supplies as to the accuracy or completeness of the Confidential Information disclosed.

4. This obligation shall remain in force for 5 (five) years following the fulfilment of the Supplies.

VIII. Force Majeure

1. If Eaton is prevented, hindered or delayed from or in performing any of its obligations under these Terms (other than a payment obligation) by a Force Majeure Event, Eaton's obligations under these

Terms are suspended while the Force Majeure Event continues and to the extent that it is prevented, hindered or delayed.

2. "Force Majeure Event" means an event beyond the reasonable control of Eaton including, without limitation, strike, lock out, labour dispute, (but excluding strikes, lockouts and labour disputes involving employees of Eaton, supply difficulties and delays, breach of contract or disputes with the sub-contractors of Eaton, act of God, war, riot, civil commotion, malicious damage (but excluding malicious damage involving the employees of Eaton) compliance with a law or governmental order, rule, regulation or direction, embargoes and trade limitations, accident, breakdown of plant or machinery fire, flood, storm and difficulty or increased cost in obtaining workers, goods or transport.

3. Where a Force Majeure Event in the meaning of clause VIII.2 substantially changes the economic importance of the contents of the Supplies or considerably affect the Purchaser's business, the contract shall be adapted taking into account the principles of reasonableness and good faith. To the extent this is not justifiable for economic reasons; Eaton shall have the right to rescind the contract. If Eaton intends to exercise its right to rescind the contract, it shall notify the Purchaser thereof without undue delay after having realized the repercussions of the event; this shall also apply even were an extension of the delivery period has been agreed with the Purchaser.

Impressum
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