



General Terms of Business (as of 11/2021)

I. General Provisions

The present "General Terms of Business" apply to all supplies or services (hereinafter "Supplies") provided by Micro-Epsilon Japan K.K. (hereinafter "Micro-Epsilon").

- (1) These General Terms of Business shall be applicable to all contracts, agreements and orders with principals, legal entities, public authorities for all future business relationships as well, even if not expressly arranged again (hereinafter "Customers"). Micro-Epsilon exclusively performs Supplies based on the present General Terms of Business. Customer's deviating, conflicting or supplementary general terms of business shall not apply even in case of notification by Micro-Epsilon unless expressly agreed in writing. Micro-Epsilon and the Customer are referred to individually as a "Party" or collectively as the "Parties". These General Terms of Business shall be considered accepted at the latest upon receipt of the Supplies.

II. Quotations/Supplies

- (1) Quotations and cost estimates of Micro-Epsilon are subject to change. Orders shall only be deemed to be accepted by Micro-Epsilon if they have been executed or are confirmed in writing or in text form.
- (2) Tolerances of dimension, weight or performance, technical or design changes as well as deviations of brochures and other documents in the course of technical progress shall be reserved. They shall be accepted by the Customer unless they are fundamental and if they are reasonable for the Customer.
- (3) Partial Supplies shall be allowed as far as they are acceptable for the Customer. If a partial delivery extends to more than two weeks, Micro-Epsilon shall have the right to invoice the delivered Supplies.

III. Prices and Terms of Payment

- (1) Prices shall be ex works (EXW, according to Incoterms 2010 in the respectively valid version), exclusive packaging, plus the respectively applicable statutory value added tax (VAT).
- (2) All prices are net from any deductions, withholdings, taxes, insurance costs, duties or other charges. The Customer is solely responsible for the collection, remittance and payments of any or all taxes, charges, levies, assessments and other fees of any kind imposed by governmental or other authority in respect of the purchase of the Supplies.
- (3) If Micro-Epsilon has taken over the installation or mounting and unless otherwise agreed upon, Customer shall bear – aside from the stipulated compensation – all required additional expenses, (e.g. travel costs, costs for transporting the tools).
- (4) Payments shall be made by Customers 30 days as of the date of invoice, unless otherwise agreed in writing with the Customers.

- (5) In case the Customer does not meet its obligation to pay or circumstances arise which cause major doubts in the Customer's liquidity or creditworthiness, Micro-Epsilon is entitled to call due the remainder of the debt or demand a reasonable security deposit.
- (6) Micro-Epsilon reserves the right to charge a late payment interest at a rate of 14.6% per annum.

IV. Retention of title

- (1) Micro-Epsilon shall retain the ownership and title in all delivered Supplies (this including spare or replacement parts such as motors, control devices etc., even if they are installed in delivered Supplies) until full payment of the Supplies by the Customer.
In case of a current account relationship (business connection), Micro-Epsilon shall reserve ownership until the receipt of all payments under the existing current account relationship.
- (2) In case of Customer's conduct in violation of the contract, especially in case of default of payment, Micro-Epsilon shall be entitled to take back the Supplies after the expiry of a reasonable period of time as of the date of a formal notice to cure which remains unsuccessful. Customer shall, at its costs, send back to Micro-Epsilon the Supplies upon first demand in writing from Micro-Epsilon. Micro-Epsilon shall furthermore be entitled to prohibit Customer from any further sale or processing of the Supplies delivered under retention of title and to revoke the right of direct debiting service.
- (3) Customer shall treat the Supplies with care (including any required inspection and maintenance work).
- (4) Customer may neither pledge, nor assign as security, nor transfer or dispose in any manner the Supplies and the debts claims applicable for it. In case of distress, insolvency event or other interventions by third parties, the Customer shall immediately notify Micro-Epsilon in writing.
- (5) In the proper course of business, the Customer shall be entitled to further sell, process or mix the purchased Supplies; however, Customer hereby assigns to Micro-Epsilon all claims from further sale, processing, mixing or for other legal reasons (especially insurances or unlawful act) in the amount of the final amount of the stipulated invoice (including value-added tax). If the delivered Supplies are sold further together with other goods which do not belong to the Customer, the Customer hereby assigns to Micro-Epsilon the resulting receivables in the amount of the stipulated gross price.
Even after the assignment, Customer shall remain entitled to collect these receivables, without affecting Micro-Epsilon's right to collect the receivables himself.

Micro-Epsilon shall agree, however, not to collect the receivables as long as the Customer meets the payment obligations from the proceeds collected, as long as Customer is not in default of payment, and as long as there is no application for the institution of bankruptcy proceedings or any stoppage of payment.

If this is the case, however, Customer shall advise upon request about the receivables assigned and the debtors; Customer shall provide all information required for collection, hand over the pertinent Documents and inform the debtor (third party) of the assignment.

- (6) Retention of title shall also extend to the full value of those goods which are created by processing or modification of the delivered Supplies. If the ownership rights of third parties remain in existence during the processing or conversion with their goods, Customer shall grant Micro-Epsilon co-ownership in relation to the objective value of these Supplies; it shall be agreed now already that Customer will carefully safeguard the goods for Micro-Epsilon in this case.

If the conditional goods are combined with other movable goods to homogeneous goods or inseparably mixed and if the other goods are to be considered as the principal thing, Customer shall grant Micro-Epsilon proportionate co-ownership as far as the principal thing is its; Customer shall safeguard the resulting (co-)ownership for Micro-Epsilon.

The same shall otherwise apply for goods resulting in this manner as for those delivered under retention of title.

- (7) Customer shall also assign to Micro-Epsilon the claims for safeguarding Micro-Epsilon's claims which arise against a third party due to the connection of the delivery objects with a piece of real estate.
- (8) As far as the validity of the retention of title in the destination country is tied to special prerequisites or special requirements of form, Customer shall take care that they will be complied with.

V. Delivery Periods, Default

- (1) Compliance with the delivery periods shall require the on-time receipt of all documents to be supplied by the Customer, the required permits and releases, especially of plans, as well as compliance with the stipulated payment terms and other obligations by the Customer. If these prerequisites are not complied within due time, the periods shall be reasonably extended; this shall not apply if Micro-Epsilon is responsible for the delay. For the rest said delivery periods shall be binding only if they are expressly confirmed by Micro-Epsilon in writing or in text form.
- (2) Upon occurrence of unforeseeable obstacles which are outside of Micro-Epsilon's sphere of influence and which Micro-Epsilon had been unable to avert – despite the diligence reasonably to be expected according to the circumstances of the case – regardless of whether they occur with Micro-Epsilon or its subcontractor – such as Force Majeure Event defined in Article XVI, delays in the delivery of essential preliminary products and raw materials, etc. – Micro-Epsilon shall be entitled to rescind the delivery contract entirely or in parts or extend the delivery period by the duration of the obstacle. Micro-Epsilon shall have the same rights in case of strike or lock-outs at its facilities or its subcontractors. Micro-Epsilon shall notify the Customer immediately of such circumstances. Under these circumstances contractual penalties

shall not be forfeited. In case of rescission Micro-Epsilon shall reimburse said provided consideration without delay.

- (3) Proper and on-time self-delivery shall be reserved. Customer shall be notified of any delays promptly. As far as Micro-Epsilon is not supplied correctly or on-time by its suppliers and if Micro-Epsilon is not responsible for it, the time of performance shall be extended by a corresponding period of time. In this case, Micro-Epsilon can also optionally declare rescission from the contract with regard to the Supplies not delivered. As far as allowed under competitive law, Micro-Epsilon shall assign to the Customer its claims against the subcontractor for the non-contractual supply. Under these circumstances contractual penalties shall not be forfeited. In case of rescission Micro-Epsilon shall reimburse that part of the price corresponding to the Supplies not delivered without delay.
- (4) In case of default of delivery, Customer can rescind the contract after an unsuccessfully expired, reasonable prior notice period to remedy.
- (5) Upon Micro-Epsilon's request, Customer shall be obligated to declare within a reasonable period of time whether it rescinds the contract due to the delay in delivery or insists on the supply.
- (6) If shipment or delivery is delayed upon the Customer's request by more than one (1) month after notification of the readiness for shipment, Customer can be charged – for every month started – for storage in the amount of 0.5 % of the price of the Supplies purpose of such deliveries subject however to a maximum amount of 5% of the price. Micro-Epsilon shall be free to prove higher damage or expenditures; Customer shall be free to prove that no damage or expenditures were incurred or only considerably lower damage or expenditures.

VI. Passing of Risk

- (1) Even with freight-free delivery, the risk shall pass to the Customer as follows:
- a) For Supplies without installation or mounting when they were brought to shipment or have been picked up. At the Customer's request and costs, supplies shall be insured by Micro-Epsilon against the usual transport risks;
 - b) For Supplies with installation or mounting on the day of acceptance in own facility or, as far as stipulated, following proper trial operation.
- (2) If the shipment is delayed or precluded without Micro-Epsilon's fault, the risk shall pass to the Customer as of notification of readiness for shipment.
- (3) If the Customer is in default of acceptance, the risk shall pass to the Customer.

VII. Installation and Mounting

Unless otherwise agreed upon in writing or unless special mounting conditions are included, the following provisions shall apply for installation and mounting:

- (1) Customer shall accept at its own expense and provide on time:
- a) All earthworks, construction work and other side work from outside the industry, including the correspondingly required skilled workers and unskilled workers, construction materials and tools;

- b) the necessary items and materials required for mounting and commissioning, such as scaffolding, hoisting equipment and other devices, fuels and lubricants;
 - c) energy and water at the application site, including the connections, heating and lighting;
 - d) at the place of mounting, sufficiently large, suitable, dry and lockable rooms for storing machine parts, apparatuses, materials, tools, etc.; and for the mounting personnel suitable workrooms and common rooms, including sanitary installations which are reasonable for the circumstances; Customer shall otherwise take measures for the protection of the property of Micro-Epsilon and the mounting personnel at the construction site which Customer would take to protect its own property;
 - e) protective clothing and protective devices which are required due to special circumstances at the place of mounting.
- (2) Prior to the beginning of the mounting work, Customer shall provide – without being requested to do so – the necessary information about the location of concealed power, gas, water lines or similar installations as well as the required information on statics.
 - (3) Prior to the beginning of the installation or mounting, the provisions and items required for commencing the work shall be at the place of installation or mounting, and all preliminary work must have progressed so far, prior to the beginning of the setup, that the installation or mounting can be started according to agreement and be performed without interruption. Approach roads and the place of installation or mounting must be leveled and cleared.
 - (4) If installation, mounting or commissioning is delayed due to circumstances which Micro-Epsilon is not responsible for, Customer shall bear to a reasonable extent the costs for the waiting period and additionally required traveling by the mounting personnel.
 - (5) Customer shall weekly and immediately certify the duration of work by the mounting personnel as well as the termination of the installation, mounting or commissioning.
 - (6) If Micro-Epsilon demands acceptance of the delivery after completion, Customer shall provide same within two weeks. Failing to do so, acceptance shall be deemed made. This rule will be clearly stated in the request of acceptance to be issued by Micro-Epsilon. Acceptance shall also be deemed effected by the use of the Supply – possibly after conclusion of a stipulated test phase – by Customer.

VIII. Test Run/Test Version

- (1) A test run can be agreed upon with Micro-Epsilon. For this purpose, Micro-Epsilon supplies test equipment to the Customer. Test equipment is provided exclusively and solely for the purpose of evaluation of the Customer's desired application. Micro-Epsilon only warrants the technical data which are specified in the product documentation (e.g. data sheet, quotation, manual) provided that the basic conditions described therein are observed. Micro-Epsilon grants no warranty that the test equipment is qualified for the desired purpose and/or a special application by the Customer unless otherwise confirmed in writing by Micro-Epsilon.

- (2) It is the Customer's duty to perform the test run observing ordinary care and under the conditions of the real application. The Customer is obliged to verify whether the test equipment is suitable for its application and the desired purpose.

IX. Warranty

Micro-Epsilon shall be liable as follows for defects in delivery:

- (1) Customer may not reject delivery of Supplies because of minor defects.
- (2) In case of material defect in the purchased Supplies, Micro-Epsilon shall be entitled, at its option and discretion, to either remedy the defect or to deliver non-defective Supplies (subsequent performance). Title to the replaced Supplies, the spare parts and the software/programs under this warranty shall transfer to the Customer upon replacement and title to any related removed items shall transfer to Micro-Epsilon simultaneously, unless otherwise agreed between the Parties.
- (3) Should the subsequent performance indicated in paragraph 2 be impossible or should it fail, the Customer shall have the optional right to either reduce the purchase price accordingly or to rescind the contract according to the statutory provisions; this shall apply especially in case of culpable delay or refusal of subsequent performance, also if it is unsuccessful for a second time.
- (4) No warranty shall be accepted for damages due to the following reasons: unsuitable or improper use; faulty mounting by the Customer and/or third parties; natural wear; faulty or negligent handling by the Customer and/or third parties; unsuitable operating materials; deficient construction work; unsuitable subsoil; substitute materials; chemical, electrochemical or electrical influences (as far as Micro-Epsilon is not responsible for them); any modifications or repair work on the part of Customer or third parties which are improper and have been carried out without prior written approval of Micro-Epsilon.
- (5) Any claims for defects shall be statute-barred in two years after delivery of the Supplies.
- (6) Micro-Epsilon shall not be liable for any defect arising from fair wear and tear, willful conduct or negligence of the Customer, failure to follow Micro-Epsilon's instructions, deficient construction work, chemical, electrochemical or electrical influences due to the Customer or a third party, misuse or alteration or repair of the Supplies, spare parts or the software/programs by the Customer or a third party.
- (7) Warranties and guarantees are strictly limited to the provisions hereof and are exclusive, are given and accepted in lieu of and exclude, to the fullest extent permitted by law, all other warranties, conditions, stipulations, statements, terms, or undertaking of any kind, express or implied, written or oral, statutory or otherwise, including but not limited to their condition, quality, performance, merchantability, or fitness for purpose, and all warranties arising from any course of dealing or usage of trade. Upon the expiration of the applicable warranty period, all warranty liability terminates. Micro-Epsilon shall not be liable for any intended purpose/result (e.g. savings) expected by the Customer unless otherwise expressly agreed by Micro-Epsilon in writing.

X. Industrial Property Rights and Copyrights; Rights of Use

- (1) Micro-Epsilon shall reserve the unlimited exploitation rights, ownership rights and copyrights in cost estimates, drawings and other documents (hereinafter "**Documents**"). The Documents may only be made accessible to third parties after prior consent by Micro-Epsilon and if Micro-Epsilon is not awarded the contract, they shall be returned to Micro-Epsilon immediately upon request. This shall apply analogously for Documents of the Customer; however, they may be made accessible to those third parties to which Micro-Epsilon admissibly transferred Supplies.
- (2) Micro-Epsilon is owner or authorized by the owner of all rights of the software/programs covered by this contract. The Customer has the non-exclusive right to use the software/program with the agreed performance in unaltered form using the agreed devices (license). The Customer is entitled to carry out data backup and to make the required backup-copies according to the acknowledged state-of-the-art. The Customer is not entitled to modify or remove existing copyright notes. The license does not include any right for the Customer to edit or modify the software/program.
- (3) Unless otherwise agreed upon, Micro-Epsilon shall be obligated to render delivery free from industrial property rights and copyrights of third parties (hereinafter: industrial property rights) only in the country of the place of delivery. In case a third party raises justified claims against the Customer due to the infringement of industrial property rights due to contractually used Supplies rendered by Micro-Epsilon, Micro-Epsilon shall be liable to the Customer within the period determined in Article IX (5), as follows:
 - a) At its option and at its costs, Micro-Epsilon shall obtain either a use right for the Supplies concerned or change them so that the industrial property right will not be infringed or replace them. If it is unable to do so at reasonable conditions, Customer shall be entitled to the statutory right of rescission or reduction.
 - b) The above-mentioned obligations shall only exist as far as Customer immediately notifies Micro-Epsilon in writing or in text form about the claims lodged by the third party, does not admit an infringement, and if all defense measures and settlement negotiations shall be reserved for Micro-Epsilon. If the Customer stops using the Supply for reasons of mitigation of damage or other important reasons, he shall be obligated to indicate to the third party that stopping the use is not connected with an admission of an infringement of an industrial property right.
- (4) Claims by the Customer shall be excluded as far as it is the sole responsible for the infringement of the industrial property right. Claims by the Customer shall be further excluded as far as the infringement of the industrial property right is caused by specific requirements of the Customer, by an application not foreseeable by Micro-Epsilon, or due to the fact that the supply was changed by the Customer or used together with products not supplied by Micro-Epsilon.
Liability shall be complete if it falls within the ambit of unrestricted liability as stipulated in Article XII.

XI. Data Protection

- (1) "Personal data" means all information relating to an identified or identifiable natural person. An identifiable natural person is deemed to be a person who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier, or to one or several specific elements specific to the identity of that natural person.
- (2) The Customer consents that Micro-Epsilon may store, transfer, change and delete all Personal Data in connection of the Agreement. In particular, the Customer consents to the transfer of Personal data concerning the Customer by Micro-Epsilon to an affiliated company of Micro-Epsilon inside the European Union.

XII. Liability

- (1) Micro-Epsilon shall be liable for any violation of its material obligations hereunder. Micro-Epsilon shall not be liable for any indirect, special damages arising out of or in connection with this terms or any material breach hereof (including for loss of data or profits, or cost of cover), whether or not the Customer has been advised of the possibility of such damages, and whether under a theory of contract, tort or otherwise. In no event will Micro-Epsilon aggregate liability arising out of or in connection with these terms or any breach hereof exceed the reasonable amount of damage foreseeable at the conclusion of the contract. Material obligations of Micro-Epsilon are the duty to deliver on time subject to the terms hereof and the absence of defects in the Supplies that materially impair their functioning or use.
- (2) The foregoing limitation shall not apply in case of (i) death or personal injury resulting from negligence, (ii) fraud or fraudulent misrepresentation, (iii) material breach or wilful misconduct, or (iv) any liability that cannot otherwise be limited or excluded by applicable law.
- (3) The exclusion and limitation of Micro-Epsilon's liability shall also apply for Micro-Epsilon's legal representatives and employees. Micro-Epsilon's liability shall be equally unrestricted where guarantees and warranties are issued if a defect covered under these in particular triggers the liability.
- (4) Micro-Epsilon is liable for the loss of data only, even if it had not been avoidable by reasonable measures of data backup and it is not caused by disturbances and influences of third parties and if this does not fall within the ambit of unrestricted liability as laid down in Article XII.
- (5) The terminated Party may not claim for damages due to such termination.

XIII. Place of Performance, Place of Jurisdiction, Applicable Law and Distribution of the Burden of Proof, Privacy of Data

- (1) Place of performance shall be the place of delivery of Supplies.
- (2) These General Terms of Business shall be governed by and shall be interpreted in accordance with the law of Japan. The Parties agree to implement their best efforts to settle amicably any litigation arising out of the Agreement or related to it of its execution. If the Parties have not resolved the dispute following a period of thirty (30) days, such dispute shall irrevocably be submitted to Osaka District Court.

- (3) Micro-Epsilon shall handle all of the Customer's data exclusively for the purposes of business transactions and according to the requirements of the respectively valid provisions on the privacy of data. All terms and definitions shall be neutral in gender.

XIV. Miscellaneous

- (1) Should individual provisions of these conditions be or become entirely or partly invalid or void, the effectiveness of the remaining provisions shall remain unaffected thereby. In such event, a valid provision is deemed to have been agreed which comes closest to what the Parties intended commercially and shall replace the invalid provision. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted and shall not affect the validity and enforceability of the rest of these General Terms of Business.
- (2) No covenants, terms, or condition, or the breach thereof, shall be deemed waived, except by written consent of the Party against whom the waiver is claimed; and any waiver of the breach of any covenant, term, or condition shall not be deemed to be a waiver of any preceding or succeeding breach of the same or any other covenant, term, or condition.

XV. Elimination of Anti-social force

- (1) Either Party hereby represents that it currently does not fall under any of the following persons nor of the below items: an Organized Crime Group, a member of an Organized Crime Group, a person who has ceased to be a member of an Organized Crime Group and for whom five years have not elapsed from the day of such cessation; an entity affiliated with an Organized Crime Group; a corporate racketeer (*sokaiya*); a person engaging in criminal activities under the pretext of conducting social campaign or political activities (*shakaiundo hyobo goro*); a racketeering group specialized in intellectual crimes (*tokushu chinou boryoku shudan*); or those equivalent to the foregoing ("**Organized Crime Groups**").
- (2) In the event of a breach of the above representation by a Party, the other Party may immediately terminate this agreement without notice and without prejudice to any other rights and remedy available.
- (3) The terminated Party may not claim for damages due to such termination.

XVI. Force Majeure

- (1) A "**Force Majeure Event**" means an event beyond the reasonable control of the affected Party by which the affected Party's performance of the Agreement becomes unable including, without limitation, act of God, governmental regulation which adversely and irrevocably affects the performance of its obligations by a Party to the Agreement, war (declared or undeclared), riot, fire, flood, storm, earthquake, tsunami, radioactivity and contamination.
- (2) Neither Party shall have any liability or responsibility for failure to fulfil any obligation under the Agreement so long as and to the extent to which the fulfilment of such obligation is prevented as a consequence of a Force Majeure Event.
- (3) A Party claiming the benefit of the Force Majeure shall, as soon as possible after the occurrence of a Force Majeure Event: 1) notify the other Party of the nature and extent of such Force Majeure Event; and 2) use all reasonable endeavors to remove any such causes and resume performance under the Agreement as soon as possible.