



professional automation GmbH

professional trading Ltd.

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## DELIVERY TERMS

1. All our supply contracts are governed exclusively by these delivery terms and conditions. We shall not be bound by the client's purchasing conditions. The client shall be bound by his order for a period of four weeks.

2. Our tenders, price lists, quotations and specifications are not binding. All orders and agreements are subject to written confirmation from ourselves before they become legally valid; the same applies to promises made by our representatives.

3. Our prices include delivery from our site in Wels 4600. In the case of service contracts, invoices will be submitted on completion of the services actually provided. In the case of unscheduled services charged on an hourly basis and services which are only invoiced if actually performed, the full amount shall be payable even if the confirmation documents have not been signed. If services are not performed at the place of fulfilment, travelling time from our site shall be regarded as working time.

4. All delivery dates and delivery periods are approximate. Fixed contracts are not permitted.

Claims for compensation on the part of the client due to delayed delivery/services or nonfulfilment are precluded.

Any partial services already performed must be accepted and paid for by the client.

Partial deliveries and part invoices are admissible and payable by the client in accordance with the specified terms and conditions of payment.

5. Our products are dispatched from our site in Wels 4600 at the client's risk, even if we are responsible for shipment and other costs. Risk is transferred to the client when the products are handed over to the carrier.

The client undertakes to do everything in his power to ensure that our operations and services can commence and that they can be performed in due fashion and without any problems. If this is not the case, we must be compensated for any additional outlay incurred. When performing an IT project, the client must appoint a contact person with sufficient expertise to make decisions on detailed queries and problems associated with progress of the project and with the ability to coordinate the IT project.

The client is responsible for ensuring that the existing preliminary services are performed properly and that anything which he provides is suitable for the purpose and that the documents which he provides are correct and complete. This also applies to any performance specifications concerning individual programmes which need to be drawn up.

If the client does not accept the products or services, either in part or in full, or does not meet the conditions for the services to be performed, we may terminate the contract after setting a 14-day notice period and/or claim compensation on the grounds of non-fulfilment. We are entitled to claim either thirty percent of the agreed contractual sum without the need to provide proof of loss, or compensation for the actual loss incurred. This also applies if the contract is cancelled for other reasons beyond our control.

**6.** Our invoices are payable in full within 10 days of the invoice date. Any other target or discount agreements require separate notification.

In the event of an instalment agreement, the full amount shall become due even if only one instalment is missed ("acceleration clause").

The client is not entitled to withhold payment for any reason whatsoever or to offset payments against our claims. If, in the case of a delivery or service, the client has the right to withhold payment, this is limited to the amount of capital required to cover the appropriate remedial costs.

**7.** If all claims are otherwise excluded, the client shall undertake to inspect the delivered goods or services provided without delay and to submit an immediate written report detailing any defects which he has observed. The same applies to any defects which may arise at a later date.

The warranty period runs for six months after delivery. The customer shall be required to prove that any defects for which we are responsible were present when the goods were delivered.

If the delivered goods are used goods, any warranty on our part shall no longer apply.

We may, at our discretion, fulfil warranty claims by rectifying the defect or replacing with perfect goods or by offering an appropriate price reduction, especially if rectifying the defect is not possible or would only be possible by incurring disproportionately high costs on our part.

If the client does not formally accept the goods or services, the services provided shall be deemed to have been transferred and accepted no later than one week after our notification of completion.

We accept no liability for complete or partial failure or in the event of damage caused by the material or preliminary service provided.

If the client does not notify us in writing, giving full details, of the precise use (type, place of use, extent of use, etc.) which he intends to make of the goods or services we have provided, we do not accept liability for damage or any other consequences which may arise as a result of the specific usage.

Items which are in a new box (NIB) with an original Siemens Seal can also be used parts which were repaired from Siemens or products from the Siemens Sparepart-pool!

**8.** Until the purchase price has been paid in full, along with all of our claims arising from our contractual relationship with the client, the delivered goods shall remain our property.

If the client falls into arrears in respect of his payment obligations or if he contravenes any of the requirements arising from the agreed reservation of ownership, the entire outstanding claim shall be payable immediately. In any event, we are entitled to demand the return of the items which are still our property, without terminating the contract, and to collect these from the client. The client has no right to retain these goods under these circumstances.

**9.** Any claims for damages against us shall be excluded, irrespective of the legal grounds on which they are based. This also includes claims made on the grounds of breach of contract and/or conclusion of a contract, but also in accordance with the provisions of the Product Liability Act for damage to persons or property as a result of a defect in the goods. This applies unless we are found to be guilty of deliberate intent or gross negligence, in which case the burden of proof lies with the client. All claims for compensation for consequential damage, such as loss of output or profits, etc. are excluded in their entirety.

All claims for damages and any appeals against us must be enforced within six months, otherwise they will lapse.

**10.** Information required in order to process the order and accounts will be stored in our IT system, e.g. client's name, address, order and accounting information. We will only use the stored data in accordance with the statutory provisions.

**11.** Unless otherwise specified in these conditions, the relevant version of the software conditions issued by the Fachverband der Elektro- und Elektroindustrie Österreichs (FEEL) (Association of Austrian Electrical and Electronics Industries) shall apply to goods and services provided in the software sector.

**12.** In the event of any disputes which may arise from this supply contract, the sole place of jurisdiction shall be the competent court in Wels 4600.

The place of fulfilment shall be Wels 4600.

The contractual relationship shall be governed exclusively by Austrian law, with the exception of UN sales law which is excluded.

**13.** SOFTwerk is entitled to adjust the agreed price (metal price surcharge) for deliveries, based on the Increase or decrease of the purchase price for Rare Earths.

For the actual price of a product the metal price surcharge valid on the delivery is applicable, independent of which metal price surcharge was valid at the date of submission of a order date.

**14. Seminar Conditions**

Registration: If you are interested in one of our courses, please contact us:

Phone ++43 (0)7242 24040-0 / Fax ++43 (0)7242 224040-100 / mail: [office@SOFTwerk.at](mailto:office@SOFTwerk.at). We will do our best to meet your requirements in respect of date and content. We will send you confirmation of the training you require.

Training Fees: The costs quoted are in Euro excl. VAT per participant and includes all course documents, lunch, and also drinks and coffee during the breaks. We would be happy if we can help you with some hotel reservations if you want !

Cancellations: Should you cancel a training session within 10 working days of the beginning of the seminar, we will have to invoice you 25% of the seminar fees. In the case of seminars that are carried out specially for your company we will have to invoice you 10% of the fees for cancellation within 10 working days. With fewer than 4 users we reserve ourselves to shift or call the seminar off.

Copyright: All software that is provided during training, must not be taken away, copied or made available to third parties. SOFTwerk Professional Automation GmbH is the sole owner of all rights.