

ETKEMS

General Terms and Conditions of Sale for ETK EMS Frederikssund A/S, ETK EMS Asia Productions Ltd, ETK EMS Skanderborg A/S and ETK EMS Sønderborg A/S

1. Scope of Applicability

- 1.1 These General Terms and Conditions of Sale (“GTCS”) apply to all sales of goods by ETK notwithstanding any conflicting, contrary or additional terms and conditions in any purchase order or other communication from CUSTOMER. No such conflicting, contrary or additional terms and conditions shall be deemed accepted by ETK unless and until we expressly confirm our acceptance in writing.
- 1.2 ETK reserve the right to change these GTCS at any time.

2. Offers, Purchase Orders and Order Confirmations

- 2.1 All offers made by ETK are open for acceptance within fifteen calendar days from the date of issue, unless otherwise specifically stated therein, and are subject to the availability of the goods offered.
- 2.2 All purchase orders issued by CUSTOMER shall specify as a minimum the type and version number, quantity of goods requested, applicable agreed unit prices, delivery place and requested delivery dates. No purchase order shall be binding on ETK unless and until confirmed by ETK in writing.
- 2.3 Stocked intermediate products and items without movement, which has been used in the production of products shall be transferred to the CUSTOMER. This also includes unique incoming raw materials and contracted purchase commitments which cannot be sold to the supplier, all intermediate products and components shall be sold at proven purchase price plus fifteen (15) % to the CUSTOMER.
- 2.4 The CUSTOMER shall be offered a consignment stock for the transfer of goods which have been settled upon delivery of the parts in the purchase order.

3. Prices and Terms of Payment

- 3.1 The prices of goods shall be those set forth in ETK order confirmation. All prices are exclusive of taxes, impositions and other charges, including, but not limited to, sales, use, excise, value added and similar taxes or charges imposed by any government authority.
- 3.2 Unless expressly stated otherwise, bank guarantee or cash payment for 70% of the estimated total running order value must be provided prior to any acceptance of purchase order. Only with this in place ETK accept 30 days net payment terms, if this cannot be provided all payment will be cash up front including estimated excess stock “liability”.
- 3.3 CUSTOMER must submit such financial information from time to time as may be reasonably requested by ETK for the establishment or continuation of payment terms. ETK may in our sole discretion at any time change agreed payment terms without notice by requiring payment cash in advance or cash on delivery, bank guarantee, letter of credit or otherwise.

- 3.4 If CUSTOMER fail to pay any invoice within seven (7) calendar days of the payment due date, ETK may suspend delivery of any purchase order or any remaining balance thereof until payment is made, or terminate delivery of any purchase order or any remaining balance thereof by providing written notice of termination to CUSTOMER within seven calendar days of the expiration of the grace period. Furthermore, ETK may charge CUSTOMER interest from the due date to the date of payment at the rate of one and a half (1 ½) % per calendar month. This shall be in addition to, and not in limitation of, any other rights or remedies to which ETK are or may be entitled at law or in equity.
- 3.5 Entitlement to goods delivered shall remain with ETK and shall not pass to CUSTOMER until the goods have been paid for in full. If CUSTOMER fail to pay any invoice within fourteen (14) calendar days of the due date of payment, ETK may reclaim goods entailed in the invoice. Insurance of the goods shall be taken out by CUSTOMER and shall cover, in full, the value of replacing the goods, until such time entitlement to the goods has passed to CUSTOMER.

4. Terms of Delivery and Late Delivery

- 4.1 Unless expressly stated otherwise in ETK order confirmation, all deliveries of goods shall be EXW in accordance with Incoterms 2010. The risk of loss of or damage to goods shall pass to CUSTOMER in accordance with the agreed delivery term.
- 4.2 The delivery dates of goods shall be those set forth in ETK order confirmation. Should ETK fail to deliver goods within fourteen (14) calendar days of the agreed delivery date, CUSTOMER may terminate the applicable purchase order in whole or in part (as to those goods affected by the delay) by providing written notice of termination to ETK within seven (7) calendar days of the expiration of the grace period. CUSTOMER may not claim damages for direct loss suffered as a result of the delay subject. These terms shall be CUSTOMERS exclusive remedies for late delivery.
- 4.3 ETK reserve the right to deliver in installments.

5. Acceptance of goods

- 5.1 CUSTOMER must inspect goods delivered upon receipt. CUSTOMER shall be deemed accepting of goods delivered unless written notice of rejection, specifying any reasons for rejection, is received by ETK within five (5) calendar days of delivery of the goods.

General Terms and Conditions of Sale

6. Warranty

6.1 ETK warrant that from delivery and for a period of twenty-four (24) months from the date of delivery Units shall be free from defects in workmanship.

The warranty does not cover damage resulting from misuse, negligent handling, lack of reasonable maintenance and care, accident or abuse by anyone other than ETK.

6.2 With respect to goods which do not conform to the warranty ETK liability shall be limited to, at ETK discretion (i) refund of the purchase price for such goods less a reasonable amount for usage, (ii) repair of such goods, or (iii) replacement of such goods; provided, however, that such goods are returned to ETK, along with acceptable evidence of purchase, within fourteen (14) calendar days after CUSTOMER discovered the lack of conformity or ought to have discovered it.

6.3 ETK offer no other warranty, expressed or implied, with respect to goods delivered hereunder, and the warranty constitutes our sole obligation in respect of any lack of conformity of goods delivered hereunder. In particular, ETK offer no warranty with respect to the merchantability of goods delivered or their suitability or fitness for any particular purpose.

7. Intellectual Property Rights Infringement

7.1 If any goods delivered hereunder are deemed infringing to a third party's patent, utility model, design, trademark or other intellectual property right and CUSTOMER are enjoined from using same, ETK shall, at CUSTOMER discretion and expense, replace the goods with non-infringing substitutes provided that such substitutes do not entail a material diminution in performance or function; or modify the goods to make them non-infringing.

7.2 ETK are not entitled to sell, or in any other way to share information with any other 3 party, unless this is necessary to obtain either pricing or parts to build the specific product.

7.3 All documents and product rights belongs to CUSTOMER.

8. Limitation of Liability

8.1 Neither of the parties shall be entitled to, nor liable for, indirect, special, incidental, consequential or punitive damages of any nature, including, but not limited to, business interruption costs, loss of profit, removal and/or reinstallation costs, procurement costs, loss of data, injury to reputation or loss of customers.

8.2 ETK shall not be liable for any claims based on ETK compliance with CUSTOMER designs, specifications or instructions or repair, modification or alteration of any goods by parties other than us or use in combination with other goods. Product are build to CUSTOMER specifications, and to IPC610 Class II, all mechanical drawings and specifications must be provided from CUSTOMER, the documentation and assembly specifications are the sole responsibility of CUSTOMER.

9. Force Majeure

9.1 Either party shall be excused from any delay or failure in performance if caused by reason of any occurrence or contingency beyond its reasonable control, including, but not limited to, acts of God, acts of war, fire, insurrection, strikes, lock-outs or other serious labor disputes, riots, earthquakes,

floods, explosions or other acts of nature. The obligations and rights of the party so excused shall be extended on a day-to-day basis for the time period equal to the period of such excusable interruption. When such events have abated, the parties' respective obligations shall resume. In the event the interruption of the excused party's obligations continues for a period in excess of thirty (30) calendar days, either party shall have the right to terminate the applicable contract(s) of sale.

10. Miscellaneous

10.1 Should any provision of these GTCS be held by a court of competent jurisdiction to be illegal, invalid or unenforceable, such provision may be modified by such court in compliance with the law giving effect to the intent of the parties and enforced as modified. All other terms and conditions of these GTCS shall remain in full force and effect and shall be construed in accordance with the modified provision.

10.2 These GTCS and all contracts of sale entered into between the parties shall be governed by and construed in accordance with the laws of Denmark without giving effect to any choice of law or conflict of law provisions. Any suits, actions or proceedings that may be instituted by either of us against the other shall be instituted exclusively before the competent courts of Denmark, however, without prejudice to our right to bring suits, actions or proceedings in any other court which would have jurisdiction if this provision had not been incorporated into these GTCS.