

## **General Terms & Conditions of Delivery and Payment of LADD-Distribution – TE Connectivity Germany GmbH (a TE Connectivity Ltd. company)**

### **I. Scope**

1. All deliveries, services and offers by LADD Distribution – TE Connectivity Germany GmbH ("LADD") shall be made exclusively on the basis of these General Terms & Conditions of Delivery and Payment. These General Terms & Conditions of Delivery and Payment shall form part of all agreements entered into between LADD and its contractual partners (hereinafter also referred to as "Purchaser") with regard to deliveries or services offered by LADD. They shall also apply to future deliveries, services or offers to the Purchaser, even if not being referred to explicitly.
2. Purchaser's general terms & conditions shall not apply unless LADD has explicitly agreed to their applicability in writing. LADD's General Terms & Conditions of Delivery and Payment shall also apply if LADD unconditionally effects deliveries to the Purchaser even aware that the Purchaser's terms and conditions conflict with or deviate from its own.

### **II. Conclusion of contract and delivery of products**

1. All offers made by LADD are subject to change without notice and non-binding unless explicitly designated as binding or specifying a fixed timeframe for acceptance. No contract shall enter into force until LADD has provided a written or electronic order confirmation. The written or electronic order confirmation shall determine the scope of delivery. All ancillary agreements or amendments have to be confirmed in writing or electronically by LADD to be valid.
2. LADD reserves the right to modify the design or shape of the delivery items to be delivered unless (i) such modifications substantially alter the delivery items to be delivered and are unacceptable to the Purchaser or (ii) LADD and the Purchaser have explicitly agreed on the binding character of data provided by LADD as regards the delivery items (e.g. weight, dimensions, utility values, load capacity, tolerances, technical data) or of depictions of the same (e.g. drawings, illustrations). The aforementioned information from LADD relating to the delivery items to be delivered or services to be provided – as well as respective depictions are

neither guaranteed nor do they constitute an agreement on assured properties unless explicitly confirmed otherwise by LADD in writing or electronically. If no such written or electronic confirmation is provided by LADD, the afore-said information merely constitutes a non-binding

description or qualification of the delivery items or services from which deviations pursuant to the first sentence of this section II. 2 are admissible. If LADD and the Purchaser have explicitly agreed on the binding character of specific data, LADD may only make modifications to delivery items to be delivered or services to be rendered if such modifications are required under mandatory statutory provisions and are acceptable to the Purchaser. If the modifications are unacceptable, the Purchaser is entitled to withdraw from the contract. Any further claims shall be excluded.

3. In light of the wide range of applications for its products, statements from LADD concerning the function and use of its products shall be considered as general guidelines only. Unless LADD and the Purchaser agree in writing on a particular quality and condition of the delivery item or on the suitability of the delivery item for a particular use, the Purchaser alone shall bear the risk regarding the question of whether or not the delivery item is suitable for the purpose which was specifically intended by the Purchaser.
4. LADD retains all rights, in particular title and copyright, to all documents, drawings, illustrations, specifications, samples and other similar items which are provided to the Purchaser. The Purchaser may use them exclusively within the bounds of the purpose provided for in the relevant contract. They have to be treated as strictly confidential and may not be made available to third parties without LADD's prior express written consent.

### **III. Prices and payment**

1. The prices apply for the scope of the delivery or services specified in the order confirmation. Any additional or special deliveries or services will be charged separately. Unless explicitly agreed otherwise, the prices shall be in Euro and EXW (Incoterms 2010), exclusive of packaging and VAT. Customs duties, taxes, charges and similar

levies which LADD is required to pay will be charged separately.

2. Orders for which the parties have agreed that the time of delivery shall be later than four months after conclusion of the respective contract or orders which are executed later than four months after conclusion of the respective contract for reasons within the Purchaser's responsibility, shall be invoiced in accordance with LADD's price list effective on the date of delivery.
3. In case the raw material prices relevant for the products ordered should increase substantially (i.e. by at least 10%) after LADD's submission of an offer or confirmation of an order or conclusion of a framework agreement providing for fixed prices, LADD shall be entitled to increase the price by a reasonable amount. Purchaser's justified interests shall be duly taken into account in this process, particularly with regard to possible commitments of the Purchaser relating to the onward delivery of the delivery items at a fixed price. The calculation of the price increase for the affected raw materials shall be based on publicly available sources (e.g. ICIS, Harrimann or KI newsletters).

If relevant cost factors – such as in particular costs of energy, wages, transportation and insurance – should increase substantially (i.e. by at least 10%) after LADD's submission of an offer or confirmation of an order or conclusion of a framework agreement providing for fixed prices, LADD shall be entitled – applying the provision above – to increase the prices by a reasonable amount *mutatis mutandis*. Purchaser's interests shall be duly taken into account in this process, particularly with regard to possible commitments of the Purchaser relating to the onward delivery of the delivery items at a fixed price.

4. All invoiced amounts shall be payable at the latest 30 days after the invoice date, cash without any deductions free place of payment unless expressly otherwise agreed upon in writing. In the latter case, the date on which the payment is credited to LADD's bank account is decisive for timely payment.
5. If the Purchaser does not effect payment by the due date, the outstanding amounts shall be subject to interest of 5% p.a. as of the due date; in the event of default of payment, the Purchaser shall pay default interest at the rate of 8 percentage points above the base lending rate. LADD reserves the right to prove that higher damages have been incurred due to the default of payment.
6. The Purchaser is only entitled to set off own claims if its counterclaims have been judicially determined as non-appealable, are undisputed or have been acknowledged by LADD. The Purchaser may only exercise a right of retention if its counterclaim is due and arises from the same contractual relationship.

7. LADD is entitled to insist on advance payment or the rendering of sureties by the Purchaser for outstanding deliveries if it becomes aware of circumstances which may substantially impair the Purchaser's creditworthiness and, as a result of which, at LADD's due discretion, jeopardise payment of the Purchaser's accounts payable at LADD in connection with relevant orders, including accounts payable in respect of individual orders which are governed by the same framework contract.
8. Unless explicitly agreed upon otherwise with the Purchaser, all payments must be made in €(Euro) and exclusively to LADD.

#### IV. Delivery and delivery period

1. If LADD explicitly warrants or has agreed on a fixed delivery period or date the order confirmation shall govern the applicable delivery periods. In any other cases all periods and dates mentioned by LADD have to be understood as determining the date of delivery merely approximately. The delivery period shall not commence until the Purchaser has furnished all documents, permits and approvals to be procured (if any) and until any agreed advance payments have been received.

The delivery deadline is met if prior to its expiry the delivery items were prepared for shipment at LADD's premises and readiness for dispatch has been notified to the Purchaser. LADD shall be entitled to refuse to hand over the delivery items to the carrier if the load cannot be secured pursuant to the German VDI Guideline 2700 due to the condition of the transport vehicle or if LADD does not consider the transport vehicle to be roadworthy pursuant to the applicable Traffic Regulations. If LADD refuses to hand over the delivery items to the carrier for the aforementioned reasons, the provisions set forth in sections V. 2 and V. 3 below shall apply accordingly.

2. Partial deliveries shall be admissible to a reasonable extent if such delivery can be used by the Purchaser for the contractually agreed purpose, if the delivery of the remaining delivery items is warranted and if the Purchaser will not incur any additional costs or expenses as a result.
3. If a delivery, after readiness for shipment has been notified, is postponed at the Purchaser's request or for other reasons within the Purchaser's responsibility, LADD shall be entitled to charge costs of storage in the amount of 0.5% of the price of the delivery items per month or part thereof, however not exceeding 5% in total. The right of each party to prove that higher or lower damages have incurred remains unaffected hereof.
4. The delivery of the delivery items to the Purchaser shall be subject to LADD itself being supplied properly and in due time by its own suppliers.
5. If LADD is in default of delivery or unable to effect delivery at all, the Purchaser shall be entitled to

withdraw from the contract in accordance with statutory provisions. Claims for damages for default of delivery or impossibility of performance shall only be due to the purchaser under the provisions of section VIII. of these General Terms & Conditions of Delivery and Payment.

6. If deliveries are delayed due to force majeure, LADD shall have the right to extend the delivery period for the duration of the event causing the delay plus a reasonable time for run-up or to cancel the contract due to the unperformed part of the contract either in part or in full. The same shall apply in the event of strikes, lock-outs, political unrest and unforeseen circumstances such as interruptions of operations which prevent LADD from effecting timely delivery despite making reasonable efforts to do so. This shall furthermore apply if the afore-mentioned events occur at a time at which LADD is already in default of delivery or affect a supplier of LADD. LADD will inform the Purchaser without undue delay in case such an event of force majeure pursuant to this provision occurs. The Purchaser may request LADD to declare within a period of six weeks whether it intends to cancel the contract due to the nonperformed part of the contract in part or full or whether it will effect delivery within a reasonable additional period of time. If LADD does not respond to the Purchaser's request within the afore-mentioned timeframe, the Purchaser may withdraw from the part of the contract which has not been fulfilled yet.

#### **V. Packaging, shipment, passing of the risk and Purchaser's acceptance of the delivery items**

1. Unless otherwise explicitly agreed upon, LADD shall select the type of packaging to be used at its sole discretion.
2. The risk shall pass on to the Purchaser, at the latest, when the delivery items are handed over to the carrier commissioned by the Purchaser. The same shall apply in case of partial deliveries. Purchaser shall be in default of acceptance if, having received notification from LADD that the delivery items are ready for dispatch, it refuses to take over the delivery items on the specified date or does not pick-up or commission a carrier to pick up the delivery items on the specified date.
3. If the Purchaser is in default of acceptance of the delivery items or fails to comply with other duties to cooperate, LADD shall be entitled to demand compensation for any damages incurred, including any additional expenses resulting therefrom. In this case, the risk of accidental loss or deterioration of the purchased item passes on to the Purchaser. After expiry of an appropriate additional period of time for acceptance set by LADD, LADD shall be entitled to either otherwise dispose of the delivery items or to effect delivery to the Purchaser within a reasonably prolonged period of time.
4. The delivery items will only be insured against theft, breakage, transportation, fire and water

damage or other insurable risks at the explicit request and expense of the Purchaser.

5. Without prejudice to its rights under section VII. of these General Terms & Conditions of Delivery and Payment, the Purchaser shall be obliged to accept the delivery items delivered even in case that the items show negligible defects and may only be returned to LADD under the condition precedent that the Purchaser is entitled to withdraw from the contract in accordance with section VII.3.
6. If required to do so by law, LADD shall take back any packaging material free of charge. The return must be carried out as specified by LADD, either at LADD's delivery location or at any receiving office of any operator providing comprehensive take-back systems (e.g. Duales System) which has been named by LADD. The cost, if any, of transporting the packaging to the receiving office shall be borne by the Purchaser.

#### **VI. Retention of title**

1. LADD reserves title to the delivery items until any and all claims against the Purchaser arising from the business relationship have been settled, including future claims arising from agreements concluded concurrently or at a later time. This shall also apply if individual or all of LADD's claims are included in a current account and the balance has been stricken and accepted.
2. If LADD withdraws from the contract due to the Purchaser's breach of contract, in particular due to the Purchaser's delayed payment, the Purchaser shall bear all costs associated with LADD's repossession of the supplied delivery items. In the event of seizures or other interventions of third parties, the Purchaser must immediately notify LADD in writing, provide all necessary facts and inform the third party about the existing ownership situation. The Purchaser must not pledge or transfer title of the delivery items as collateral. The Purchaser shall handle the supplied delivery items with due care. In particular, the Purchaser shall insure the delivery items at replacement value against damage by fire, water and theft at its own expense.
3. The Purchaser shall be entitled to resell the supplied delivery items in the ordinary course of business. However, it shall assign to LADD any and all future claims and ancillary rights arising from the resale of the delivery items against the purchaser or a third party, irrespective of whether the delivery items to which title has been retained are resold without or after further processing. The Purchaser shall remain authorized to collect these claims, even after the assignment. LADD's authority to collect claims itself remains unaffected hereby. However, it shall undertake to refrain from collecting claims for as long as the Purchaser meets its payment obligations, is not in default of payment and, in particular, has not suspended payments and not filed for insolvency proceedings. LADD is entitled to demand that the Purchaser informs it about the assigned claims and the respective debtors, provides all

information necessary for the collection of the debts, hands over the necessary documents and informs the debtor of the assignment.

4. The processing or conversion of the delivery items by the Purchaser shall always be performed on LADD's behalf. The Purchaser's expectant right to the delivery items shall continue to apply to the processed or converted items. If the delivery items to which title has been retained are processed or inseparably combined with other items which are not owned by LADD, LADD shall acquire coownership of the new items in proportion to the value of the delivery items for which title is retained to the processed items at the time of processing. If the delivery items are processed in such a way that the Purchaser's items form the main part of the processed item, it is agreed that the Purchaser transfers proportionate coownership to LADD. The Purchaser shall store such items of sole or co-ownership for LADD. The new combined or processed item shall be subject to the same provisions as are delivery items to which title is retained.
5. The Purchaser shall also assign all claims against third parties arising from the combination of the delivered delivery items with a building or real estate as collateral for LADD's claims.
6. When so requested by Purchaser, LADD shall release collateral if the realisable value of such, taking into account usual bank reductions of valuation, exceeds the claims for which collateral have to be furnished by more than 20%. In this calculation, the purchase prices shall be assumed for delivery items and the nominal value for claims.

## VII. Claims for defects

1. The Purchaser's claims based on defects of the delivery items require that it has properly complied with its statutory obligations to inspect and complain. Purchaser is required to provide notice of defects in writing to LADD, precisely specifying the type and extent of the defect so that LADD can examine whether the notice of defect is justified.

Furthermore, Purchaser shall inspect the supplied delivery items immediately after receipt for damages during transportation. The Purchaser shall note any damage discovered thereby on the bill of lading, such objection being countersigned by the carrier, and notify LADD respectively in writing.

2. If the supplied delivery items are defective, LADD shall be entitled at its own discretion to either remedy the defect or supply a replacement item. LADD shall pay all costs associated with subsequent performance in compliance with the statutory law. If the Purchaser asserts a justified claim for costs against LADD in this connection as a result of the deployment of own employees, delivery items or devices, Purchaser's claim for the reimbursement of such costs shall be limited to its own costs (*Selbstkosten*). If the costs associated with subsequent performance should

increase due to the fact that the delivery items have been brought to a place other than the agreed place of delivery at the request of the Purchaser, the Purchaser shall bear all resulting additional costs.

3. If LADD is not willing or able to remedy the defect or supply a replacement item, if it refuses to do so or exceeds reasonable time limits for reasons within its own liability, or if it fails at least twice to remedy the defect for other reasons, Purchaser shall be entitled at its discretion to withdraw from the contract or demand an appropriate reduction of the purchase price.
4. Purchaser shall not be entitled to withdraw from the contract due to the delivery of defective delivery items if it is not able to return the performance received and this is not due to the fact that the nature of the performance makes this impossible, the impossibility is within LADD's responsibility or the defect did not become apparent until the item had been processed or converted. In case of delivery of defective delivery items or of partial performance, the Purchaser shall only be entitled to withdraw from the entire contract or demand compensation for damages in lieu of performance in accordance with the following provisions if it has no interest in the performance provided, judged by objective criteria.
5. For essential third party products, LADD's liability shall be limited to the assignment of the claims to which LADD is entitled in relation to the supplier of the third party product. If the claim against the supplier of the third party product is not honoured for reasons which are not within the Purchaser's responsibility (e.g. due to the supplier's insolvency), the Purchaser shall be entitled to those claims for defects against LADD which are provided for in the provisions of this section VII.
6. The Purchaser shall be entitled to claims for damages only under the prerequisites set by section VIII. of these General Terms & Conditions of Delivery and Payment.
7. Any claims for defects of the delivery items are excluded in case the Purchaser reworks or engages a third party to rework the delivery items without LADD's consent and this unreasonably complicates the process of remedying the defect or renders it impossible. In any case, the Purchaser is required to pay any resulting additional costs in connection with remedying the defect. No liability is accepted for damage resulting from the following:
  - unsuitable or improper use,
  - incorrect assembly or commissioning by the Purchaser or a third party, unless attributable to erroneous assembly instructions provided by LADD,
  - modifications to the delivery items by the Purchaser or a third party,

- natural wear and tear, unless explicitly guaranteed otherwise by LADD,
  - incorrect or negligent handling or storage,
  - unsuitable consumables, replacement materials,
  - chemical, electrochemical or electrical effects, unless these are the fault of LADD.
8. The statute of limitations for claims for subsequent performance, for rescission of contract and for reduction of the purchase price due to defects of the delivery items is one year starting from the passing of the risk. Claims for damages which are based on defects of the delivery item shall become time-barred according to the provisions of section VIII. 10 below.

### VIII. Claims for damages

1. LADD is liable for damages, based on whatever legal grounds, in particular impossible, delayed, defective or incorrect delivery, breach of contract, breach of obligations in contractual negotiations or tort, exclusively as specified in this section VIII. Otherwise any liability for damages shall be excluded.
2. LADD shall be liable under the statutory regulations for damages caused by willful acts and gross negligence of its legal representatives and executives, for injury to life, body and health, for explicitly guaranteed features of the delivery items and in accordance with the German Product Liability Act.
3. In addition LADD shall be liable for
  - a) damages resulting from a slight negligent breach of cardinal obligations (so called "*Kardinalpflichten*") on the part of its legal representatives, executives, employees or other vicarious agents;
  - b) damages caused by gross negligence or willful acts on the part of its non-managerial employees or other vicarious agents without the breach of cardinal obligations

only as specified in the following sections VIII. 4, 5 and 6. Cardinal obligations in the aforementioned sense shall be such obligations which are essential to the proper performance of the contract and which contractual partners may typically expect to be met.
4. LADD's liability for damages as specified before in section VIII. 3 shall be limited to damages that are typical and foreseeable under the contract at hand.
5. LADD's liability for damages as specified before in section VIII. 3 is excluded as far as the Purchaser has effectively limited its own liability against its customers. The Purchaser shall undertake its best efforts to agree limitations on liability to the extent admissible by law – also in favour of LADD – with its customers.

6. To the extent LADD is liable under section VIII. 3 above, its liability for indirect or consequential damages which result from defects of the delivery items shall be restricted to such damages that can be typically expected in the course of the customary use of the delivery items. In no event shall LADD be liable for loss of profits.
7. If LADD provides technical information or advice, which advice is not part of LADD's contractual undertakings, it shall be provided free of charge and under exclusion of any liability.
8. In case the Purchaser intends to assert a claim against LADD in accordance with the preceding provisions, it shall promptly notify LADD hereof, provide comprehensive information and consult with LADD. Purchaser shall give LADD the opportunity to examine the case of loss. The parties to the contract agree to consult each other on the measures to be implemented, particularly in settlement negotiations.
9. The provisions excluding warranty as specified in section VII. 7 of these General Terms and Conditions of Delivery and Payment shall apply accordingly.
10. The statute of limitations for claims for damages due to a defective delivery is one year starting from the passing of the risk. The limitation period for claims for damages due to the violation of other contractual duties is one year starting from the end of the year in which the claim arose and the Purchaser gained knowledge of the circumstances giving rise to the claim and of the debtor or should have done so in the absence of gross negligence. Deviating from the above, the statutory limitation period shall apply in the event of death, bodily injury or damage to health, damages according to the German Product Liability Act, as well as any damage caused by fraudulent behaviour, willful misconduct, gross negligence or through the negligent breach of so-called cardinal obligations, as defined in section VIII. 3 of these General Terms and Conditions of Delivery and Payment, by LADD's legal representatives, managerial staff or vicarious agents, as well as in the case of defects of a building or of delivery items supplied which are typically used for a building and have caused a defect of such building.

### IX. Industrial property rights

1. Unless expressly agreed otherwise, LADD warrants only that the goods do not infringe any third-party industrial property rights (hereinafter: Property Rights) in the country where the place of delivery is located, unless LADD has knowledge of Property Right infringements at the Purchaser's place of business or in such other country where the delivery item will be taken according to the Purchaser's written notification to LADD. If any third party asserts legitimate claims against the Purchaser for Property Right infringements caused by products that were delivered by LADD and are used as agreed, LADD shall be liable to

the Purchaser within the scope of the provisions stipulated in the first sentence above as follows:

- a) The Purchaser shall advise LADD in writing of any Property Right infringements that allegedly exist according to the third party without undue delay. LADD shall, at its own discretion and at its own expense, settle or defend these claims or settle the matter. For this purpose, the Purchaser grants LADD the exclusive authority to decide on the legal defence and settlement negotiations and the Purchaser shall additionally grant LADD any authorization that may be required in the particular case, including the right to delegate this authority.
- b) If the delivery constitutes a Property Right infringement, as defined in sentence 1 above, LADD shall remove the cause of the Property Right infringement within a reasonable period of time. For this purpose, LADD shall, at its own discretion, obtain at its own expense a right of use for the deliveries concerned, modify the delivery item in such a manner as to ensure that it no longer infringes the Property Right, or exchange the delivery item.
- c) If the removal of the Property Right infringement fails or cannot be carried out on reasonable conditions, or if the Purchaser cannot reasonably be expected to tolerate the removal of the Property Right infringement, the Purchaser shall have the statutory rights to either withdraw from the contract or reduce the purchase price. LADD's obligation to pay damages shall be governed by section VIII. of these General Terms and Conditions of Delivery and Payment.
- d) LADD is not liable for third-party claims for Property Right infringements if and to the extent that they are due to particular requirements of the Purchaser, to an application which LADD could not foresee or to the fact that the delivery item is modified by the Purchaser or by an unauthorized third party or is used under conditions other than those agreed upon or recommended by LADD or is used together with products that were not supplied by LADD. As a general rule, LADD is not liable for third party claims for Property Right infringements if and to the extent that the Purchaser is responsible for these infringements. Should any third party assert such claims against LADD, the Purchaser shall indemnify and hold LADD harmless from and against these claims.

e) Furthermore, LADD is not liable to the Purchaser if the Purchaser acknowledges the infringement vis-à-vis the third party without LADD's consent or, should the Purchaser discontinue the use of the product, fails to advise the third party that the discontinuation of use does not involve an acknowledgement of any Property Right infringement.

2. In the event of a Property Right infringement, the provisions of sections VII. 2 and 5 above shall apply correspondingly.
3. The limitation rules set out in sections VII. 8 and VIII. 10. above shall apply correspondingly.

#### **X. Export Regulations – prerequisites to be met for deliveries by LADD**

Delivery by LADD shall be subject to the proviso that any necessary export permits have been granted and there are no other obstacles to the delivery items being exported by LADD as exporter/carrier or one of LADD's suppliers as a result of any export or transportation regulations which have to be complied with.

#### **XI. Final provisions**

1. If the Purchaser is a merchant, LADD's registered office is the proper legal venue. However, LADD shall also be entitled to bring an action against the Purchaser at any other given legal venue.
2. As far as not expressly agreed otherwise in writing, place of performance for all obligations resulting from the business relationship shall be Munich-Heimstetten.
3. All deliveries shall be governed by the law of the Federal Republic of Germany. The application of the United Nations Convention on Contracts for the International Sale of Goods (CISG) of 11 April 1980 is excluded.
4. If any provision of these General Terms and Conditions of Delivery and Payment is found to be invalid, this shall not affect the validity of the remaining provisions. The contractual partners shall reach agreement on the replacement of the invalid provision with a substitute provision which comes closest to the originally intended economic purpose. This provision shall also apply if any gaps or omissions in these General Terms & Conditions of Delivery and Payment are discovered.