

General Terms and Conditions of Sale, ADEC Technologies AG

1. Conclusion of Contract

1.1 Conclusion of Contract by way of Confirmation of Order

The Sales Agreement for a single shipment of goods by ADEC to the Buyer shall be concluded at the moment when ADEC confirms the Buyer's oral or written order in writing. In the event that there is no Confirmation of Order in writing ADEC's invoice for products shall be deemed to be the Confirmation of Order.

1.2 Offers by ADEC

Offers by ADEC shall be subject to alteration and are to be interpreted solely as invitation to place an order with ADEC.

2. Prices

2.1 Quotations

The prices stated in ADEC's offers are binding upon ADEC only for shipments to be made within 60 days of the date of the respective offer. For shipments occurring thereafter, or if no price is stated in an offer, ADEC's price list in effect on the date of the Confirmation of Order by ADEC shall apply.

2.2 Orders

Prices are firm and fixed, and apply to minimum quantities ordered for scheduled release over a maximum period of 12 months computed from the date of order.

2.3 Software

All software provided by the Company is subject to the license agreement that accompanies or is part of the software package provided with the Product (the "Software License") and Distributor agrees to be bound by the Software License, and the applicable patent, trademark, copyright, and other intellectual property laws. Such software may be included in ROMs or other semiconductor chips embedded in hardware, or it may be contained separately on disks or on other media. Distributor shall not separate any end-user license from a software Product. Title to software will remain with the applicable licensor(s). Except to the extent permitted by law, Distributor shall not duplicate, disassemble, de-compile, reverse engineer, modify, create derivative works, or otherwise change any software product(s) or its form.

3. Scope of Applicability of the Present General Terms and Conditions of Sale

The present General Terms and Conditions of Sale shall be exclusively applicable to all shipments by ADEC and shall, together with the applicable Software License and any additional terms and conditions contained in the respective Confirmation of Order, form the only and entire agreement between the parties (collectively, the "ADEC Terms"). The ADEC Terms supersede all oral agreements between the parties as well as prior correspondence or offers by ADEC made in accordance with art. 1.2. All information contained in ADEC's general sales literature (pamphlets, brochures, data sheets, technical data, weights and similar information) shall not be binding upon ADEC. ADEC expressly reserves the right to alter the above mentioned information at any time until the date when a Confirmation of Order for a particular shipment is dispatched. ADEC shall not be bound by any oral representations made by any of its agents or employees which are in conflict with the present General Terms and Conditions of Sale. Any terms and conditions in an order of the Buyer, particularly general terms and conditions of purchase of the Buyer, shall not be applicable to shipments under the present General Terms and Conditions of Sale unless such terms and conditions of the Buyer are: (a) not conflicting with the present General Terms and Conditions of Sale of ADEC and (b) have been expressly accepted by ADEC in writing.

4. Contract Changes or Cancellation

The present General Terms and Conditions of Sale may not be modified except by a written agreement signed by both parties. A Confirmation of Order cannot be modified or cancelled, except with ADEC's written consent and upon terms which will indemnify ADEC against any costs it may incur, including but not limited to ADEC's expenditures for completed parts on hand, work in progress, purchased equipment and materials and labour.

5. Taxes

All ADEC prices are exclusive of any duties and sales or use taxes. Any and all such taxes which are required to be paid by ADEC will be added to the invoice and the Buyer agrees to pay all such taxes.

6. Shipping Dates

ADEC expressly excludes any guarantee that the shipping dates indicated for single shipments shall be met. Failure by ADEC to meet shipping dates or shipping deadlines does not entitle the Buyer to cancel the respective order or to claim a breach of contract, provided that ADEC has proceeded in good faith to meet the shipping dates. All liability for loss or damages, whether direct, indirect, consequential or otherwise, due to delays which occur after the goods ordered have been delivered to the carrier is excluded.

7. Packing and Carriers for Shipping

Unless otherwise agreed to in writing, all shipments are EXW Eschenbach, Switzerland. Any specified packaging or shipping instructions requested by the Buyer may involve additional charges to the Buyer which the Buyer agrees to pay. For the interpretation of the clause «EXW» or for any other shipping clause agreed to between the parties the current edition of «Incoterms», issued by the International Chamber of Commerce shall be applicable.

8. Risk of Lose and Damage in Shipping

ADEC shall arrange for insurance coverage of all shipments of products to the Buyer against the risk of loss or damage. The Buyer agrees to pay all costs of such insurance, which shall be billed to the Buyer by ADEC.

9. Inspection an Acceptance of Goods

The Buyer agrees to inspect the goods within 14 days of receipt and to report any damage to the goods to the carrier responsible for delivery. The Buyer further agrees to inspect the goods within 30 days of receipt to determine whether any defects exist which would justify the Buyer not to accept the goods. For any claims for defective goods the Buyer must give ADEC notice of the defect in writing within 30 days of receipt of the goods with a complete description of the nature of the defect. Otherwise the Buyer will be deemed to have waived any objections based upon such defects and will be deemed to have accepted the goods. ADEC shall have the right to settle claims as it deems proper, either by repair, replacement of parts, or credit.

10. Warranty Information and Warranty Disclaimers

10.1 Scope of Warranty

ADEC warrants that the products (excluding software) sold pursuant to the present General Terms and Conditions of Sale shall be free of defects in materials or workmanship for a period of 24 months from the date of delivery. Any further warranty is excluded. ADEC specifically disclaims any and all warranties as to soft and water soluble materials, whether such warranties are expressed or implied.

10.2 Limitation of Warranty

ADEC'S OBLIGATION AND LIABILITY UNDER THIS WARRANTY SHALL BE LIMITED TO REPAIR OR REPLACEMENT OF THE DEFECTIVE PRODUCT, OR IF THAT IS NOT POSSIBLE, TO REIMBURSEMENT OF THE PURCHASE PRICE. FOR REPAIR, THE BUYER MUST PAY ALL COSTS, INCLUDING INSURANCE COST, OF SHIPPING THE DEFECTIVE PART TO ADEC'S OFFICES IN ESCHENBACH, OR SUCH OTHER PLACE AS MAY BE DESIGNATED BY ADEC, AND THE BUYER MUST PAY ALL COSTS, INCLUDING INSURANCE COST, OF THE RETURN SHIPPING FROM ADEC TO THE BUYER. IN THE EVENT THAT ADEC SHALL FULFIL ITS WARRANTY OBLIGATION BY REPLACEMENT OF THE DEFECTIVE GOODS, ADEC'S WARRANTY OBLIGATION IS DEEMED TO BE SATISFIED AT THE MOMENT OF THE SHIPMENT OF THE REPLACEMENT GOODS FROM ESCHENBACH OR ANY OTHER SHIPPING POINT. ADEC SHALL HAVE NO OBLIGATION TO SHIP A REPLACEMENT PART BEFORE BEING IN RECEPTION OF THE DEFECTIVE PART FROM THE BUYER AT ADEC'S OFFICES IN ESCHENBACH.

10.3 Disclaimer of Warranty in the Event of Misuse of Products, Negligence or Accident

ADEC's warranty does not extend to any damage of products or parts thereof which has been caused by misuse, negligence or accident. Nor does it extend to products or parts thereof which have been repaired or altered by any person other than ADEC or persons approved by ADEC.

10.4 General Disclaimer of Warranty

The warranty provided by this paragraph 10 is expressly made in lieu of any and all other warranties, expressed or implied, including implied warranties of merchantability or fitness for a particular purpose.

10.5 Limitation of Liability

In no event shall ADEC be liable for lost profits, consequential damages, losses or expenses, whether direct or indirect, incurred by the Buyer as a result of any defect in the products sold pursuant to the present General Terms and Conditions of Sale regardless of whether the Buyer's claim is made based on this warranty, breach of contract, tort or otherwise.

11. Confidential Information

Any technical data and illustrations not contained in ADEC's normal sales literature, including price information, shall not be disclosed to any third party. The Buyer acknowledges that such technical data, illustrations and pricing information constitute trade secrets the disclosure of which may cause substantial damage to ADEC. Any breach of this obligation of confidentiality by the Buyer shall render the Buyer liable for all damages incurred by ADEC as a result thereof.

12. Patent Infringement

ADEC's liability to the Buyer for infringement of a valid patent for products manufactured and sold to the Buyer by ADEC based on the present General Terms and Conditions of Sale is limited to a reasonable royalty based upon the price of the product sold. This liability shall not extend to any article of manufacture incorporating ADEC's devices as a component part nor to any use of the products by the Buyer. If any infringement litigation is threatened or instituted against the Buyer by virtue of the Buyer's sale or use of any products sold by ADEC, the Buyer shall immediately notify ADEC. ADEC shall have the option of replying to or defending threatened litigation to the extent of ADEC's liability.

13. Default

The occurrence of any of the following events shall constitute an event of default:

- Non-payment by the Buyer of any payment when due
- The failure of either party to perform any other term or condition of the present General Terms and Conditions of Sale or any other agreement between ADEC and the Buyer which is not cured within a time limit set by the other party
- Either party ceases doing business as a going concern, is insolvent, makes an assignment for the benefit of other creditors, admits in writing its inability to pay its debts as they become due, files a voluntary petition seeking any reorganisation, arrangement or composition, under any present or future laws or regulations, or is adjudged a bankrupt.

14. ADEC's Remedies in the Event of Buyer's Default

If the Buyer defaults under his Sales Agreement with ADEC, ADEC may, at its option, exercise any or all of the following remedies, in addition to or in lieu of any other remedies provided by law:

- Declare all moneys owed at that time under this Sales Agreement immediately due and payable
- Cease performance under this Sales Agreement, including but not limited to the shipment of any additional goods which ADEC is otherwise obligated to ship under this Sales Agreement
- Cease the design or manufacture of any goods which ADEC is to manufacture or design under this Sales Agreement
- For any payment due under this Sales Agreement which is not paid when due interest shall accrue from the due date at the rate of 1% per month, or the maximum amount permitted by law, whichever is less.

ADEC's failure to take immediate action of default provisions is not a waiver of these provisions.

15. Retention of Title

Until full payment of the purchase price including any other payments due under the present General Terms and Conditions of Sale and the Confirmation of Order the products delivered shall remain ADEC's sole property. ADEC shall be entitled to have the Retention of Title be registered in the respective public register. The Buyer agrees to cooperate with ADEC for such registration at ADEC's request.

The Buyer may dispose of the products for which the Retention of Title is reserved within the limits of its ordinary conduct of business, provided however, that ADEC may revoke such right of the Buyer at any time. The Buyer may not dispose of the goods to which the Retention of Title applies in any manner going beyond the ordinary scope of business activity, such as pledging, granting of a security interest in the respective products or similar dispositions. In the event that the products are pledged by a third party or should any other interference occur which might jeopardise ADEC's right or ability to dispose of the respective goods the Buyer shall immediately inform ADEC.

In the event that the products under Retention of Title should be sold to a third party the purchase price is deemed to be assigned to ADEC without prejudice to any other claims of ADEC. The Buyer is authorised to collect the moneys assigned to ADEC which are due to him based on his sale of the products, provided, however, that the Buyer is paying its debts to ADEC as they become due. The Buyer shall at ADEC's request hand over to ADEC all documents and pass on all information needed by ADEC for the notification of the assignment to the Buyer's creditors and for the collection of the moneys.

16. Costs and Attorneys Fees

In the event that the Buyer defaults under his Sales Agreement and ADEC seeks any remedies described in the present General Terms and Conditions of Sale or any remedies provided by law, ADEC shall be entitled to recover all of its costs and reasonable attorneys fees, whether or not any legal action or proceeding is brought by ADEC.

17. Indemnification

The Buyer agrees to indemnify ADEC against and hold ADEC harmless from, any and all liability and from any and all claims, actions or causes of action, including all costs of attorneys fees, arising out of, connected with, or resulting from the maintenance, operation or use of the goods sold pursuant to the present General Terms and Conditions of Sale unless such liability claims, actions or causes of action are a result of the gross negligence of ADEC or its representatives.

18. Ongoing Applicability of the Present General Terms and Conditions of Sale

The parties agree that for any and all subsequent purchases by the Buyer from ADEC the present General Terms and Conditions of Sale and the terms and conditions set forth in the Confirmation of Order shall apply unless the parties sign a separate sales agreement at a later date in which event the terms and conditions of that agreement shall apply. ADEC reserves the right to present to the Buyer a revised version of the present General Terms and Conditions of Sale for approval at a later date.

19. Applicable Law

All Sales Agreements concluded under the present General Terms and Conditions of Sale shall be deemed to be entered into in Canton of St. Gallen, Switzerland and the ZGB of Switzerland shall govern the validity, interpretation and enforcement of such General Terms and Conditions of Sale and Sales Agreements.

20. Severability of Terms and Conditions

ADEC and the Buyer intend the present General Terms and Conditions of Sale to be a valid and binding legal instrument for each and every Sales Agreement concluded between them and agree that any provision of the present General Terms and Conditions of Sale which may be judicially determined to be unenforceable shall in no way invalidate any other provisions of the present General Terms and Conditions of Sale which shall all remain in full force and effect.

21. Jurisdiction

The ordinary courts at the legal domicile of ADEC shall be exclusively competent to settle any and all disputes which may arise in connection with or from Sales Agreements between ADEC and the Buyer to which the present General Terms and Conditions of Sale are applicable.