

# General Terms and Conditions of Würth Electronics Japan Co., Ltd.

– As of: April 2020 –



## 1. Application

1.1 These General Terms and Conditions (hereinafter "**Conditions**") shall apply to all deliveries and services of **Würth Electronics Japan Co., Ltd.** (hereinafter "**Würth Electronics**") even if they are not referred to in subsequent contracts. Any terms and conditions of the customer that conflict with, supplement, or deviate from these Conditions shall not become part of the contract unless their application is expressly approved by Würth Electronics in writing. These Conditions shall apply even if Würth Electronics accepts a delivery or service from the customer without reservations whilst being aware of the customer's conflicting or deviating terms and conditions.

1.2 Agreements which supplement or deviate from these Conditions and which are made between the customer and Würth Electronics for the performance of a contract must be set out in writing in the contract. This also applies to the cancellation of this requirement of the written form.

1.3 Any rights beyond these Conditions to which Würth Electronics is entitled by law shall remain unaffected.

## 2. Offer and formation of contract

2.1 Offers from Würth Electronics shall be subject to change and non-binding, unless they are expressly stated to be binding.

2.2 Pictures, drawings, information as to weight, measurement, performance and consumption as well as other descriptions of the goods in the documentation pertaining to the offer shall be approximations only, unless they are expressly stated to be binding. They do not constitute an agreement on, or guarantee of, the corresponding quality of the goods.

2.3 Würth Electronics reserves all proprietary rights and copy rights in any offer documents. Such documents may not be made available to any third party.

2.4 Orders from the customer shall be binding. Würth Electronics may accept orders by sending a written order confirmation, by making delivery or providing the services.

2.5 Executing orders according to the documents to be provided by the customer shall require written approval by Würth Electronics.

2.6 Contracts that are concluded shall oblige the customer to accept and pay for the goods or services ordered.

## 3. Prices, payment, set-off

3.1 The agreed price shall always be decisive. Not included in the price shall, in particular, be the costs for packaging, freight, insurance, customs, public levies and VAT. Statutory VAT shall be stated separately in the invoice, at the statutory rate applicable on the day the invoice is issued.

3.2 For services that shall not be performed within a period of four months after the contract has been concluded Würth Electronics shall be entitled to adjust the price in line with any increases in wages and in the cost of materials that may have occurred in the meantime. The same shall apply for services that are to be provided as part of continuous obligations. If Würth Electronics has agreed with the customer that the prices shall depend on specific price factors, for example, raw material prices, changes in the price factors can lead to price adjustments, irrespective of the performance period.

3.3. Unless otherwise agreed, payment shall be made net within 30 days after the date of the invoice. Würth Electronics shall, however, be entitled to make the execution of outstanding deliveries or the provision of services contingent upon pre-payment or the provision of security if no previous business relationship exists with the customer, deliveries are to be made abroad, the customer's registered office is abroad or if there are any other reasons that give Würth Electronics reason to doubt that payment will be made promptly after delivery or provision of the services.

3.4 If after the contract has been entered into Würth Electronics becomes aware of circumstances that could considerably reduce the customer's creditworthiness and which could endanger the payment of

outstanding receivables of Würth Electronics by the customer under the individual contract, Würth Electronics shall be entitled to refuse to continue to execute the contract until the customer makes payment or provides security for such. If the customer is in default of payment, all the receivables of Würth Electronics that are outstanding with the customer shall become due immediately.

3.5 Payment shall be deemed made on the date on which Würth Electronics can dispose of the amount owed. When paying by cheque, payment shall only be deemed made after the cheque has been cashed and Würth Electronics can dispose of the amount. Discount charges and other cheque costs shall be borne by the customer. In the event of default of payment, the customer shall pay default interest at the rate of 14,6 % per annum. The right to assert a further claim for damages is not excluded.

3.6 Würth Electronics shall be entitled to credit payments made by the customer towards the customer's oldest debt first. If costs and interest have already accrued, Würth Electronics shall be entitled to credit the payment towards the costs first, then towards interest, and finally towards the principal claim.

3.7 Counterclaims of the customer may only be set off or used to assert a right of retention by the customer if they have become final by virtue of a judgment or if they are undisputed. A right to retain may be asserted by the customer only if the customer's counterclaim is based on the same contractual relationship.

## 4. Deliveries

4.1 Delivery periods and dates shall only be binding for Würth Electronics, if Würth Electronics explicitly states or confirms that they are binding. Agreed delivery periods shall be deemed met if the goods have been handed over to the person in charge of the transport at Würth Electronics's registered office or at one of Würth Electronics's warehouses before this period has expired or if Würth Electronics has provided notification that they are ready for dispatch but have not left the registered office or warehouse because the customer has declared that it will not accept the goods.

4.2 If making the agreed deliveries or providing the services of Würth Electronics requires the cooperation of the customer, the customer shall ensure that Würth Electronics is provided with all the necessary and appropriate information and data within good time and that such is of the required quality. If programming is required, the customer shall provide Würth Electronics with the necessary computer processing power, test data and data inputting capacities within good time and to a sufficient extent.

4.3 The delivery period shall not start before all the documents, information, approvals and permits that are to be provided by the customer have been provided in full and any technical issues have been clarified and any agreed down-payment has been received. As a prerequisite for compliance with the delivery period or the delivery date, the customer must perform its other obligations properly and in due time. Compliance with the agreed delivery deadlines and delivery dates is subject to the condition that Würth Electronics is supplied by its own suppliers in due time and properly. Any changes or amendments that are subsequently agreed with Würth Electronics may result in a reasonable extension of the agreed delivery dates.

4.4 Würth Electronics shall be entitled to make reasonable part deliveries and provide partial services. Unless otherwise expressly agreed, deliveries and services ahead of schedule shall be allowed.

4.5 If the customer is in default of acceptance or violates other duties to cooperate, Würth Electronics can claim compensation for the damage caused including any additional expenditure and storage costs. Any other claims remain unaffected. Würth Electronics shall be entitled, after setting a reasonable subsequent deadline, to otherwise dispose of the goods and to supply the customer with new goods within a reasonable extended deadline.

## 5. Passing of risk/dispatch

5.1 The risk of accidental loss or accidental deterioration of the goods shall pass to the customer at the latest when the goods are handed over to the customer or, if it is agreed that the goods will be shipped, already

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with the handing over of the goods to the shipping company, freight carrier or to any other person instructed to carry out the dispatch. This shall also apply to part deliveries or if it has been agreed that the dispatch is "freight paid" or free of charge. In the absence of written instructions from the customer, Würth Electronics shall be entitled to choose the carrier and the itinerary at its own discretion and after a due assessment of the circumstances. At the request and expense of the customer, Würth Electronics shall take out transport insurance to insure the goods against the risks specified by the customer.

5.2 If there is a delay in handing over or dispatch for reasons for which the customer is responsible, the risk shall pass to the customer on the day the goods are ready to be dispatched and Würth Electronics informs the customer of such.

5.3 If Würth Electronics chooses the type of dispatch, the dispatch route and/or the person to carry out the dispatch, Würth Electronics shall only be liable for wilful misconduct or gross negligence resulting from this choice.

### 6. Retention of title

6.1 The goods supplied remain the property of Würth Electronics until all receivables owed to Würth Electronics by the customer as a result of the business relationship have been fully paid. If Würth Electronics's obligations to be performed include delivering software, up until payment in full has been made of any receivables, the customer shall in any case only be granted a revocable usage right. These receivables also include claims under cheques and bills of exchange, as well as current-account claims. The customer shall be obliged to handle all goods to which title is retained, and as long as title is retained, with due care. In particular, the customer is obliged to sufficiently insure the goods at the customer's own expense against damage by fire, water, and theft at their replacement value. The customer hereby assigns to Würth Electronics all claims for compensation arising from such insurance. Würth Electronics hereby accepts the assignment. If an assignment is not allowed, the customer hereby irrevocably instructs its insurer to make payments, if any, only to Würth Electronics. This does not affect any further claims of Würth Electronics. Upon request, the customer must provide Würth Electronics with evidence of the conclusion of the insurance policy.

6.2 The customer shall only be allowed to sell the goods which are subject to retention of title in the ordinary course of business. The customer shall store and identify such goods subject to retention of title separate from any other goods or property of the customer or third parties. The customer shall not be entitled to pledge the goods which are subject to retention of title, to transfer them by way of security or to make any other dispositions which may jeopardize Würth Electronics' ownership. In the event of attachments or other encroachments by third parties, the customer must notify Würth Electronics without undue delay in textual form and provide all the information required, advise the third party of Würth Electronics's property rights and assist with the measures taken by Würth Electronics to protect the goods which are subject to retention of title. The customer shall bear any costs for which it is responsible and which are necessary for the removal of the encroachment and the recovery of the goods, if and to the extent that these costs cannot be obtained from the third party.

6.3 The customer hereby assigns to Würth Electronics all receivables arising from the resale of the goods, including all ancillary rights, irrespective of whether the goods which are subject to retention of title are resold without or after further processing. Würth Electronics hereby accepts this assignment. In the event that such assignment is not allowed, the customer hereby irrevocably instructs the third-party debtor to make payments, if any, only to Würth Electronics. The customer has the authority, which may be revoked at any time, to collect the receivables assigned to Würth Electronics as a trustee on behalf of Würth Electronics. All amounts collected must be remitted to Würth Electronics immediately. Würth Electronics may revoke the customer's authority to collect receivables and its right to resell the goods if the customer fails to properly perform its payment obligations to Würth Electronics, if the customer is in default of payment or stops payment, or if the creditworthiness or financial position of the customer deteriorates, he ceases any other business activity essential for the contractual performance or if he becomes incapable for other reasons to fulfil the contractual duties. Any resale of these receivables is subject to prior approval by Würth Electronics. The customer's authority to

collect shall expire with the notification of the assignment to the third-party debtor. In the event of a revocation of the authority to collect, Würth Electronics may request that the customer disclose all receivables assigned, as well as the respective debtors' names, provide all information necessary for collection, provide the related documents and inform the debtors of the assignment.

6.4 In the event of default of payment on the part of the customer, Würth Electronics shall be entitled to rescind the contract without prejudice to its other rights. The customer must immediately grant Würth Electronics, or any third party commissioned by Würth Electronics, access to the goods that are subject to retention of title, surrender such goods and inform Würth Electronics where these goods are located. After a timely warning to such effect, Würth Electronics may otherwise dispose of the goods that are subject to retention of title for the purpose of satisfying its due claims against the customer.

6.5 Any processing or alterations made by the customer to the goods which are subject to retention of title shall always be deemed made on behalf of Würth Electronics. The customer's right to acquire ownership of the goods which are subject to retention of title continues to exist as a right to acquire ownership of the processed or altered item. If the goods are processed, combined or mixed with other goods that are not owned by Würth Electronics, Würth Electronics shall acquire a co-ownership interest in the new item that is equal to the ratio of the value of the goods supplied to the value of the other items processed at the time of processing. The customer shall store the new items on behalf of Würth Electronics. In all other respects, the item created through processing or alteration shall be governed by the same provisions as the goods that are subject to retention of title.

6.6 If requested by the customer, Würth Electronics shall be obliged to surrender the security interests to which Würth Electronics is entitled to the extent that the realizable value of these security interests exceeds Würth Electronics's receivables arising from the business relationship with the customer by more than 20% upon deduction of the mark-downs customary in the banking business. For valuation purposes, goods that are subject to retention of title shall be assessed on the basis of their invoice value and receivables shall be assessed on the basis of their nominal value.

6.7 In the event that goods are delivered to destinations with other legal systems in which the retention of title pursuant to clauses 6.1 to 6.6 above does not offer the same degree of protection as in Japan, the customer hereby grants Würth Electronics the equivalent security interest. If the creation of this security interest requires further declarations or actions, the customer shall make these declarations and perform these actions. The customer shall assist with all measures required for, and conducive to, the validity and enforceability of such security interests.

### 7. Claims for quality defects and liability

7.1 Würth Electronics shall manufacture its products according to the state of the art in technology applicable at time of entering into the contract. Any intended usage that goes beyond the customary usage of the products or that requires a quality that deviates from the norm, in particular, any usage that is relevant for safety purposes, for example, aerospace or automobile usage, must be agreed in advance in writing.

7.2 Subject to clause 7.11, the customer's defect rights shall require that the customer has fulfilled its statutory obligations to inspect and give notice of defects, in particular that the customer has checked the delivered goods upon receipt and notified Würth Electronics without undue delay and in textual form upon receipt of the goods of any obvious defects and defects that could be identified during such inspection. The customer shall inform Würth Electronics in writing of any hidden defects without undue delay after they have been discovered. The notification shall be deemed without undue delay if made within two weeks after delivery for obvious defects and defects that could be identified during a proper inspection or after discovery in the event of hidden defects; to meet the deadline, the dispatch of the notification or complaint shall suffice. If the customer fails to carry out a proper inspection and/or notification of the defects, Würth Electronics shall not be liable for the defect. When reporting defects to Würth Electronics, the customer must supply a detailed description of the defects in textual form.

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7.3 Unless otherwise agreed, the customer shall initially deliver the goods at its own expense to Würth Electronics so that the defects can be examined. The expenses that are required for the inspection and subsequent performance, in particular transportation, travel, labour and material costs shall only be borne by Würth Electronics if it is determined during the inspection that a defect actually exists and provided these expenses are not increased due to the fact that the customer took the goods to a different location than the original delivery address. Personnel and material costs claimed by the customer in this connection shall be charged on the basis of net costs. The reimbursement of the costs for removal and installation in the context of supplementary performance regardless of fault is excluded.

7.4 If the goods are defective, Würth Electronics shall be entitled - for the purposes of subsequent performance - to choose between remedying the defect or delivering goods that are free from defects.

7.5 If Würth Electronics is not prepared or is not in a position to carry out subsequent performance after a reasonable deadline has expired, the customer can choose to rescind the agreement or reduce the purchase price. The same shall apply if the subsequent performance fails, if it is unacceptable to the customer or if a reasonable deadline is exceeded due to reasons for which Würth Electronics is responsible.

7.6 The customer shall have no right to rescind the contract if the customer is unable to return the goods received and this is not due to the fact that it is impossible to return such due to their nature, if Würth Electronics is responsible for such or if the defect did not become apparent until after the goods were processed or altered. The right to rescind the contract shall furthermore not exist if Würth Electronics is not responsible for the defect and if instead of the received goods or services being returned by the customer, Würth Electronics has to pay compensation for lost value.

7.7 Claims for defects shall not exist with respect to defects that are due to natural wear and tear, to improper handling by the customer or a third party, or to changes or repairs to the goods that have been carried out by the customer or a third party in an improper manner. The same shall apply to defects which can be attributed to the customer or which arise as a result of technical reasons other than the original defect. The customer shall, in particular, comply with the operational, storage and/or maintenance recommendations provided by Würth Electronics or the manufacturer.

7.8 The customer's claim for reimbursement of expenses in place of damages in lieu of performance shall be excluded if and to the extent that such expenses would not have been made by a reasonable third party.

7.9 Würth Electronics shall not be liable for damage for which it is not responsible, in particular, it shall not be liable for damage that is caused by improper usage or handling of the products. The customer is obliged to comply with the operational, storage and/or maintenance recommendations provided by Würth Electronics or the manufacturer, to only make authorised changes, replace spare parts professionally and use the consumables that have the necessary specifications. Where applicable the customer shall, both before and also regularly after the deliveries have been made or the services have been provided by Würth Electronics, perform backups to its computer systems at sufficiently regular intervals. Würth Electronics shall assume no liability for damage which is caused by or can be attributed to a breach of the aforesaid obligations of the customer.

7.10 Würth Electronics shall be liable for any damage resulting from breach of guarantee or by wilful misconduct and gross negligence to mandatory statutory liability for product defects and to liability if defects were concealed with fraudulent intent. In cases of slight negligence, Würth Electronics shall only be liable if material obligations are breached that result from the nature of the contract and the performance of which is of particular importance in order for the purpose of the contract to be achieved. If such obligations are breached, as well as in the event of default or if performance is impossible, Würth Electronics's liability shall be limited to the damage which can typically be expected with such contract. Würth Electronics shall be liable for any damage from death, bodily injury, or damage to health in the event where the products manufactured, processed or imported by Würth

Electronics lacked safety they ordinarily should provide as stipulated under the Japanese Product Liability Act.

7.11 The limitation period for claims for defects of the customer shall be six months. The limitation period shall also apply to claims resulting from a tortious act that are based on a defect of the goods. The limitation period shall start with the delivery of the goods. This shall not affect the liability of Würth Electronics for damage resulting from a breach of guarantee or from death, bodily injury or damage to health, for wilful misconduct and gross negligence, and product defects. If Würth Electronics makes a statement with regard to a claim for defects asserted by the customer, this shall not be deemed as the start of negotiations with regard to the claim or the circumstances on which the claim is based, provided the claim for defects is fully rejected by Würth Electronics.

### 8. Intellectual property and usage rights relating to software and other protected products, information and co-operation duties

8.1 Unless otherwise provided in the contract or by law, any rights relating to software or other protected products which are delivered to the customer or which are produced for the customer, in particular, copy rights, industrial property rights such as, patents, trademarks and registered designs, shall remain the property of Würth Electronics or the individual proprietor of the rights. This shall also apply if the software or any other protected products are produced according to the specifications of or in co-operation with the customer.

8.2 If Würth Electronics uses the customer's software, Würth Electronics shall only use such software for the contractually agreed purpose. If Würth Electronics requires the source codes for the software to make contractually agreed changes or remedy defects, the customer shall provide Würth Electronics with such free of charge for use.

8.3 The customer shall only receive a simple right of use to the software and other protected products to such extent as is required for the purpose of the contract, unless otherwise provided in the contract, in particular, the applicable licencing terms of the software or an individual licence agreement, or by mandatory statutory law. With regard to software provided by Würth Electronics, unless expressly permitted under the contract or by law, the customer shall in particular be forbidden from reproducing, distributing, disclosing, changing, translating, extending, making other modifications to and/or decompiling such.

8.4 For backup purposes, the customer may create the necessary backup copies of the software, provided the individual licence agreement does not contain provisions to the contrary. Backup copies on moveable data carriers shall be marked as such and shall be endorsed with the copyright notice of the original data carrier.

8.5 In the event of unlawful use Würth Electronics and/or third parties, in particular, the manufacturer of the software or other protected products, reserve the right to assert claims for compensation.

8.6 In the event that a third party alleges it has a claim which conflicts with the right of use granted to the customer, the customer shall inform Würth Electronics without undue delay in text form. The notification shall also include information as to whether the customer has changed the software or the product or combined such with other software and whether this, from the customer's perspective, could justify the third party's claim. If so requested by Würth Electronics, the customer shall allow Würth Electronics to handle the defence against these claims and, to the extent permissible and possible, shall allow Würth Electronics to represent the customer or shall conduct the defence itself as instructed by Würth Electronics. Up until receiving notification as to whether Würth Electronics will deal with the defence, the customer shall not acknowledge or enter into a settlement agreement regarding the alleged claims of the third party without the express approval of Würth Electronics. If Würth Electronics deals with the defence, this obligation shall continue to apply. In addition, the customer shall support Würth Electronics in its defence, if this is required for an appropriate defence. In return, Würth Electronics shall indemnify and hold the customer harmless against any necessary external costs and any third party compensation claims and claims for reimbursement of expenses resulting from the defence, provided these can be attributed to the fault of Würth Electronics. In the event that Würth Electronics does not deal with the defence; the customer shall be entitled to defend itself at its

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own discretion. If existing third party claims cannot be attributed to the fault of Würth Electronics, the customer shall not be entitled to assert claims against Würth Electronics.

8.7 Würth Electronics shall be entitled with regard to title defects relating to software to attempt subsequent performance, if Würth Electronics so chooses (cf. 7.4). Further, for the recovery of data, Würth Electronics shall only be liable insofar as the loss of data would also have occurred if the customer had carried out the usual backups.

### 9. Product liability

9.1 The customer shall not modify the goods; in particular, the customer shall not modify or remove existing warnings relating to risks by improperly using the goods. If this duty is violated, the customer must inter partes indemnify and hold Würth Electronics harmless from and against any product liability claims of third parties to the extent that the customer is responsible for the defect giving rise to liability.

9.2 If Würth Electronics has to carry out a product recall or issue a product warning because of a product defect to the goods, the customer shall assist Würth Electronics and take all measures ordered by Würth Electronics, provided that these do not pose an unreasonable burden to the customer. The customer shall be obliged to bear the costs of the product recall or product warning, provided the customer is responsible for the product defect and the damage sustained. This does not affect any further claims of Würth Electronics.

9.3 The customer shall inform Würth Electronics without undue delay in textual form of any risks in the use of the goods and any possible product defects of which the customer becomes aware.

### 10. Force majeure

10.1 If Würth Electronics is prevented by force majeure from performing its contractual obligations, in particular from delivering the goods, Würth Electronics shall be released from its obligation to perform for the duration of the impediment and for a reasonable start-up period without being liable to the customer for damages. The same shall apply if the performance of its obligations by Würth Electronics becomes unreasonably complicated or temporarily impossible because of unforeseeable circumstances for which Würth Electronics is not responsible, in particular, because of industrial action, official acts, energy shortages, earthquakes, typhoons, floods and other natural disasters, contagious diseases, delivery problems on the part of suppliers, or major disruptions of operations.

10.2 Würth Electronics shall have the right to rescind the contract if such an impediment continues for more than three months and if, as a result of such impediment, the performance of the contract is no longer of interest to Würth Electronics. At the request of the customer, Würth Electronics shall declare after the expiry of the aforesaid three-month period whether it intends to make use of its right to rescind the contract or whether it intends to deliver the goods within a reasonable period of time.

### 11. Confidentiality

The customer shall be obliged for an unlimited period of time to maintain the confidentiality of any and all information received through Würth Electronics which is stated to be confidential or which due to other circumstances can be identified as a trade or business secret; the customer may neither record nor disclose or use any such information. The customer must ensure by means of suitable contractual agreements with its employees and those agents working on its behalf that such persons also refrain for an unlimited period of time from any use, disclosure and unauthorised recording of such trade and business secrets for their own purposes.

### 12. Final provisions

12.1 Any rights and obligations of the customer may only be assigned or transferred to a third party with the prior written consent of Würth Electronics.

12.2 The legal relations between the customer and Würth Electronics shall be governed by the laws of Japan, without regard to the United Nations Convention on Contracts for the International Sale of Goods (CISG).

12.3 Exclusive court of jurisdiction in the first instance for all disputes arising from the business relationship between Würth Electronics and the customer shall be the Tokyo District Court.

12.4 The place of performance for any and all obligations to be performed by the customer and by Würth Electronics shall be the registered office of Würth Electronics.

12.5 If a provision of these Conditions is or becomes invalid or impracticable in whole or in part, or if this agreement is incomplete, this shall not affect the validity of the remaining provisions hereof. In lieu of the invalid or impracticable provision, such valid and impracticable provision shall be deemed agreed as comes closest to the purpose of the invalid or impracticable provision. In the event that a provision of these Conditions is incomplete, such provision shall be deemed agreed as corresponds to what would have been agreed according to the purpose thereof, if the contracting parties had considered the matter from the outset.

12.6 In case of finding any discrepancies between the English and Japanese texts of this document, the English text shall prevail.

### 13. Environmental declaration

Würth Electronics is committed to people and the environment. Therefore, we undertake to manufacture our products in a manner that conserves resources and to systematically realise any potential for saving energy in manufacturing processes and in transportation. We pay close attention to ecological alternatives as concerns the selection of sources of energy and raw materials and pursue a consistent policy of waste reduction and product recycling.