

## General Terms and Conditions of Sale and Delivery

### 1. Applicability and general terms

#### 1.1. Applicability of the general terms and conditions of sale and delivery

These General Terms and Conditions of Sale and Delivery ("Terms and Conditions") are valid for all legal relationships (offers, contract negotiations, contracts) between BRUGG eConnect AG ("eConnect") and customers ("Customers") regarding (i) the sale and delivery of goods or works ("Delivery Item") and (ii) the supply of services ("Services") by eConnect to the Customers.

These Terms and Conditions build an integral part of all existing legal relationships and in particular the contracts between eConnect and the Customer unless explicitly agreed otherwise. Provisions deviating from these Terms and Conditions shall only be legally binding if explicitly offered by eConnect or explicitly accepted in writing by eConnect.

By placing an order to eConnect, the Customer confirms and accepts that the sale and delivery of the Delivery Items as well as the supply of Services shall be governed by these Terms and Conditions. eConnect reserves the right to amend these Terms and Conditions at any time. Amendments shall be applicable upon notice to the Customer for all legal relationships between eConnect and the Customer entered into thereafter.

Unless explicitly agreed otherwise by eConnect in writing, general terms and conditions and/or other contractual documents issued or provided by the Customer are explicitly waived and excluded. This rule shall also apply in case the Customer encloses general terms and conditions or other documents to the order or "order confirmation" or discloses such general terms and conditions or other documents otherwise to eConnect.

#### 1.2. Offers and conclusion of the contract

All offers, price lists, product descriptions, prospects, plans and the like from eConnect are not binding and may be amended or withdrawn at any time, unless explicitly stated otherwise in the respective document.

In case eConnect issues an unbinding offer, the contract between eConnect and the Customer only enters into effect as of the date of the confirmation of eConnect. The confirmation may take place in form of a written order confirmation (declaration of acceptance), the signing of a written contract or by execution of the order by eConnect. Orders and "declarations of acceptance" from the Customer are qualified as offer to conclude a contract only.

The order confirmations of eConnect contain a detailed description of the Delivery Item and/or the Service. Possible change requests or discrepancies shall be submitted to eConnect within two working days after receipt of the order confirmation. In case no order confirmation is issued, the description of the Delivery Item and/or the Service is evident from the offer of eConnect and/or the signed written contract.

#### 1.3. Form

Declarations in text form which may be submitted or recorded by electronic media (e-mail, sms and the like) are qualified as written declarations from a party. The evidence that such a declaration has been received and retrieved by the addressee is in the sender's responsibility. Such declarations are considered as received at the time of their retrieval by the addressee.

#### 1.4. Description of Delivery Items, Services, prospects plan and the like

All descriptions, pictures and drawings of Delivery Items and Services and information provided in brochures, catalogues, plans and the like are subject to technical modification and improvement (data dimensions, weights, etc.). Such descriptions may only depict contractual properties of the Delivery Items and Services if explicitly indicated.

Length marks on Delivery Items sheaths are subject to production tolerance and are intended for information purposes only.

### 2. Delivery Items

#### 2.1. Order, subject and scope

eConnect may receive orders directly from the Customer or from a third party being authorized orally or in writing by the Customer, e.g. a builder ("Third Party"). Orders from a Third Party are considered as orders on behalf of and on the account of the Customer. From these orders – in case of acceptance by eConnect and independently from the legal relationship between the Customer and the Third Party – only eConnect and the Customer shall be entitled and obligated.

Articles not stocked or customized (extra length, etc.) or other Delivery Items made to measure or according to customer specifications ("Custom-Built") may only be ordered in written form. The Customer is committed to accept the full amount of the order.

Subject and scope of the Delivery Items is indicated in the order confirmation from eConnect. Delivery Items and Services not indicated in the order confirmation will be invoiced separately. Incidentally clause 1.2. section 3 of these Terms and Conditions is applicable.

Delivery Items (i.e. cables) ordered in defined lengths for a specific purpose are delivered by eConnect at least in the lengths ordered.

In case of an order from a Third Party, the Third Party may receive upon demand and on behalf of the Customer a written order confirmation describing the ordered Delivery Items. Incidentally, only the terms and conditions agreed between the Customer and the Third Party shall apply for the legal relationship between the Customer and the Third Party. In particular are the prices listed in the order confirmation non-binding price recommendation. The Customer is free in its pricing decisions toward its own customers.

Subsequent changes of orders by the Customer may, if possible, at all, only be conducted at the full expense of the Customer.

## 2.2. Packaging, provision or delivery and unloading of Delivery Items

The provision or the delivery of the Delivery Items ("Delivery") will be performed in accordance with the packaging units stated in the offer or in the price lists. Special packing will be charged to the Customer additionally.

The Delivery and invoicing of cables ordered in standard manufacturing or storage lengths can differ up to 5% from the quantity ordered and may be delivered in different lots. In case the Customer does not consider this acceptable for the intended purpose, the Customer shall notify eConnect accordingly in writing at the time the order is placed.

Deliveries within Switzerland are made "Carriage Paid To" (CPT), according to the Incoterms 2010 rules to the place of destination in Switzerland agreed between eConnect and the Customer ("Destination"). The passage of benefit and risk to the Customer shall take place by delivery of the Delivery Items at Destination.

Export Deliveries are made "Free Carrier" (FCA) Brugg, according to the Incoterms 2010 rules. The passage of benefit and risk to the Customer shall take place by delivery of the Delivery Items to the carrier.

The Customer shall inform eConnect within 14 working days after receipt of the order confirmation of any special requirements concerning transport and insurance. Any requests and/or amendments at a later stage shall only be possible at the full expense of the Customer.

Possible transport damages and shortfalls shall be noted in written by the Customer and confirmed by the carrier on the delivery note and/or the shipping documents. In case of postal delivery or shipments by rail the establishment of the facts shall be requested at the post office or the rail station on the day of delivery. In case of failure to observe these instructions, eConnect reserves the right to be absolved of any obligation for compensation.

In case the Delivery is delayed or impossible for reasons beyond control of eConnect such as refusal of acceptance

of Delivery Items, no or late collection of Delivery Items by the carrier for exports, postponements, etc., the Delivery Items shall be stored for the account (0,4% of the value of goods per week after a waiting period of 30 days) and risk of the Customer.

Delivery items which run as framework contracts must be called off and delivered within the contractually agreed call-off period. If this due date is exceeded, the storage costs will be automatically charged to the customer (0.4% of the value of the goods per week requested after a waiting period of 30 days). After a maximum of 3 months beyond the agreed call period, the remaining quantity will be delivered and charged to the customer without consultation.

Interim storage of the Delivery Items and the delivery on call are only limited possible and need to be requested by the Customer in advance and from case to case. Possible additional costs will be fully charged to the Customer.

The unloading of the Delivery Items is in the reasonability of the Customer.

The Customer may request at the time of the placement of the order from eConnect to unload the Delivery Items ("Unloading"). The Unloading will be invoiced additionally to the Customer. In case the Unloading is requested by the Customer or a Third Party from the carrier or another third party authorized by eConnect ("Associate eConnect") directly at the Destination, the Associate eConnect qualifies as authorized by the Customer. The instructions of the Associate eConnect shall be followed in any event. eConnect is not responsible for damages caused by non-observance of the instructions of the Associate eConnect.

The Associates eConnect are instructed to whether carry the Delivery Items to the Customers warehouse nor to personally reload and/or handle with Customers handling equipment. In case the Customer directly instructs the Associate eConnect to carry out these works, eConnect assumes no liability.

eConnect assumes no liability for damages to persons or goods incurring in course by Unloading. This is explicitly also the case if handling equipment is provided by eConnect or by Associates eConnect.

For Deliveries being deposited at the Destination at the agreed delivery time but in absence of the Customer, eConnect assumes no liability for damages or loss of the Delivery Items. The Customers accepts the Delivery Items as received without signing of the delivery notes and/or shipping documents.

In case of collection of the Delivery Items by the Customer ex warehouse of eConnect, the Customer is responsible for the loading. In case the Customer requests the loading by eConnect, eConnect assumes no liability for damages which may occur. The Customer is responsible for the operational safety of the vehicle, in particular the cargo securing, the compliance with the permitted payload as well as the observance of the occupational health and safety rules

of eConnect by its employees or representatives on the area of eConnect.

## 2.3. Handling of Reels

Steel reels (including straps and lining wood) and synthetic reels ("Reels") remain the property of eConnect and are loaned only to the Customer. The Customer shall return a Reel to eConnect in good condition and at its own expense as soon as the Reel is empty, but at the latest 6 months after receipt of the Reel.

eConnect reserves the right to invoice the Customer for Reels at procurement price, which are returned in bad condition or not returned within 6 months. Reels not returned remain in the property of eConnect until the invoiced procurement price is fully paid. eConnect excludes any and all warranty for such Reels.

After written approval of eConnect Reels may be returned after 6 months but at the latest within 3 years after receipt of the Reels. In case such Reels are in good condition, eConnect will remunerate 75% of the invoiced procurement price. Disposable Reels shall be fully invoiced at procurement price and shall not be returned to eConnect.

Disposable reels are charged to the Customer and may not be returned to eConnect.

For reels in the property of Kabeltrommel-Gesellschaft GmbH & Co. KG ("KTG") in Cologne (Germany) the terms and conditions of KTG shall be applicable.

## 2.4. Warranty

eConnect inspects the Delivery Items in accordance with standard practice before dispatch. Any additional tests must be agreed upon and will be invoiced to the Customer separately.

eConnect warrants that the Delivery Items are free of substantial defects in material and workmanship at the time of the dispatch that affects the proper use of the Delivery Items. Any warranty beyond as well as any legal warranty are explicitly excluded unless expressly otherwise agreed in the order confirmation and/or the contract.

The Customer shall immediately inspect the Delivery Items after Delivery and give written notice to eConnect within 20 days after Delivery of any defects (postal date stamp applicable). eConnect shall be notified of later detected hidden defects immediately but not later than seven days after detection. In case of failure of giving notice or in case the Delivery Items are processed without inspection the Delivery Items are deemed to be accepted by the Customer.

In case objected Delivery, Items are processed by the Customer or a Third Party without prior written consent of eConnect, the warranty ceases.

After the notification of defects by the Customer, eConnect may up to its own discretion either inspect the objected

Delivery Items on-the-spot or request that the Delivery Items are returned to eConnect for inspection purpose. eConnect will consider the notification and inform the Customer if the asserted defect is covered by the warranty or not. The Customer shall keep the objected Delivery Items until the clearing of the notification of defect.

In case a warranty claim exists, eConnect will up to its own discretion either correct the detected defect free of charge or replace the Delivery Item or parts thereof. Subsequently, an acceptance test shall be made at the request of the Customer or of eConnect. The right of the Customer to withdraw from the contract, to claim reduction of the purchase price or to carry out any measures itself on behalf of eConnect is explicitly excluded.

In case no warranty claim exists, the Customer has to bear all cost incurred at eConnect in connection with the notification being considered as unfounded. These costs may include costs for transportation, installation and labor. The invoicing shall take place accordingly to the provisions in clause 4 of these Terms and Conditions for Services rendered.

eConnect assumes no warranty in case the Customer or a Third Party alters or repairs the affected Delivery Item without prior written consent of eConnect or in case of careless handling of the Delivery Item.

Unless explicitly agreed otherwise, the warranty expires two years following the Delivery of the Delivery Item. For Delivery Items repaired or replaced by eConnect the two-year period following the Delivery of the originally provided Delivery Items is applicable.

Any cooperation by eConnect for the detection of defects or their remediation occurs without any prejudice regarding the existence or the scope of the warranty.

## 2.5. Liability and restrictions on liability

The liability is based on the legal provisions in force. However, eConnect shall in no event be liable for: (i) slight negligence, (ii) indirect or collateral damages as well as following damages and loss of profit, (iii) unrealized savings, (iv) damages occurred from delayed delivery of Delivery Items or Services as well as (v) all acts and omissions of the Associates of eConnect, regardless if contractual or non-contractual.

eConnect is further not liable for damages which may occur out of the following reasons:

- Incorrect transportation and/or storage;
- Incorrect installation, meaning an installation not following the guidelines and instructions for installation and/or the installation manual or (in absence of manuals/guidelines) not following the rules of a professional installation or an installation beyond the recommended installation environment.

- Improper, contrary to contract or illegal use of the Delivery Items and use of the Delivery Items beyond their specifications.
- Neglected maintenance and/or improper modifications or repairs by the Customer or a Third Party.
- Non-observance of local and geographical conditions.
- Force majeure such as events of nature, fire, strike, war, acts of terrorism and governmental directives.
- Breach of obligations by the Customer according to clause 6 of these Terms and Conditions.

## 2.6. Third-party products

In case of Delivery Items produced or delivered by third parties eConnect does only have the role of procurement for the Customer. Possible claims such as manufacturing guarantee of the third party shall be addressed directly to the third party. For this purpose, eConnect assigns to the Customer all potential claim warranty rights upon request of the Customer. Any warranty or liability of eConnect for third-party products, including the liability for the dismantling and reinstallation of products of third parties, is excluded.

## 2.7. Returns

In principle, Delivery Items may not be returned and refunded. In exceptional cases and only in case of standard catalogue items Delivery Items may be returned and refunded subject to the provisions hereinafter if originally packed, complete, intact, dry and clean.

As the case may be eConnect refunds the invoiced value of the Delivery Items after deduction of 25-75% and any transportation, handling, cleaning and disposal costs, if any.

Delivery Items not refundable may be returned to eConnect for disposal at the full expense of the Customer.

Any returns are in any event subject to the explicit written approval of eConnect.

## 3. Prices, invoicing and payment

The prices stated in the respective offers, price lists, etc. at the time of the placement of the order shall be applicable.

Unless explicitly agreed otherwise, Services rendered shall be charged on time spent. Out-of-pocket expenses and cost of materials will be charged additionally. In case the underlying starting point significantly changes during the term of the contract or shall eConnect provide further Delivery Items, eConnect may even amend fixed compensations.

All prices and remunerations for Deliveries within Switzerland are stated as net prices, in Swiss francs, plus value added tax ("VAT") at the relevant statutorily applicable rate. Unless otherwise specified in the respective offers, price lists, etc. prices for Deliveries within Switzerland are stated

„Carriage Paid To“(CPT) the named place of destination according to the Incoterms 2010 rules. All prices and remunerations for export Deliveries and export Service Deliveries as well as Deliveries and Service Deliveries made abroad are stated as net prices, in Swiss francs, plus any statutorily applicable use, value-added, goods and services taxes or other similar taxes ("Consumption Taxes") in the country of destination, unless the liability to account for and pay such Consumption Taxes is reversed to the Customer ("Reverse charge"). Prices for export Deliveries are stated „Free Carrier" (FCA) Brugg according to the Incoterms 2010 rules. Accordingly the Customer shall namely bear the costs of transport, insurance, and packaging as well as taxes, customs duties, fees and other governmental charges in connection with the importation of the Delivery Items in the country of destination.

The invoicing shall take place at the full discretion of eConnect either prior or after the Delivery.

Invoices of eConnect shall be paid within 30 days of the invoice date without any deductions unless explicitly agreed otherwise. The set-off of counterclaims is not admissible. Unfounded deductions shall be invoiced by eConnect.

In case of exports of Delivery Items, eConnect reserves the right to request an irrevocable letter of credit issued by a first-class Swiss bank or CAD "Cash Against Documents" (CAD), according to the Incoterms 2010 rules.

Any deduction explicitly stated in the invoice is only admissible in case the invoice is paid at due date. The term of payment is deemed to have been observed if the amount is credited on the bank account of eConnect.

Due date is at the same time expiry date. In case invoices are not paid within the term of payment of 30 days, 6% default interest per annum as well as any processing charges shall be due without serving notice of default. eConnect explicitly reserves the right to claim any further damage caused by delay, to withdraw from the contract and to request the return of the Delivery Items according to art. 214 para 3 Swiss Code of Obligations as well as to claim any further compensation for damages. eConnect shall be entitled to have the debt collected by a third party at the expense of the Customer.

Any complaints regarding invoices shall be addressed in written form to eConnect within 10 days after receipt of the invoice, otherwise invoices are deemed to be accepted by the Customer. Payments shall be made in due time also in case unsubstantial parts of the Delivery Item, which do not make the use of the Delivery Items impossible, are missing or in case rework is needed.

## 4. Delivery times and terms

eConnect uses its best endeavors to comply with agreed delivery times. However, eConnect does not assume any warranty for the adherence to delivery times. In particular in case may that postponements are due to delays caused by the Customer or/and Third Parties such as e.g. delayed

conceptual and/or static and/or other releases, delayed signing of time-relevant appendices, change requests by the Customer for Delivery Items and/or the Services, missing letters of credit and/or import papers or in general due to missing or insufficient preparation or assistance by the Customer and/or a Third Party or due to new knowledge or cases of force majeure, eConnect does not assume any responsibility.

In case of express deliveries (deliveries of stock goods within 24 hours or Custom-Built within 72 hours) requested or explicitly requested fixed dates, eConnect invoices an express-surcharge ("Express-Surcharge"). In case of a shortening of delivery times due to change requests of the Customer, eConnect reserves the right to invoice an Express-Surcharge as well.

For export Deliveries the date of delivery is the date of delivery of the Delivery Items to the carrier in Brugg whereas for Deliveries within Switzerland, the date of delivery to the Swiss destination is applicable.

## **5. Obligations of the Customer**

### **5.1. Provision of Information**

The Customer shall undertake all preparation and assistance measures required in connection with the Delivery Items and in time (incl. any necessary authorizations of authorities as the case may be). In particular the Customer shall already at the time of the placement of the order provide eConnect with all information and materials necessary for the supply of the Delivery Items and shall inform eConnect of any particular official regulations and other regulations, instructions and particularities which need to be taken into consideration for the proper fulfillment of the contract.

### **5.2. Following of instructions**

The Customer shall follow any and all instruction, installation and processing instructions issued by eConnect and/or Associates of eConnect and/or stated in packaging, brochures and technical manuals regarding the Delivery Items.

### **5.3. Handling of hazardous Goods**

The Customer shall observe all respective applicable legal requirements and the data sheets issued by eConnect relating to the transport, the storage, and the handling of hazardous goods.

### **5.4. Confidentiality**

The Customer shall undertake all necessary measures to keep any and all confidential information disclosed to the Customer and/or a Third Party by eConnect in connection with the Services provided strictly secret for an unlimited period. The Customer shall keep confidential all information which is not generally known or in the public domain. Confidentiality has to be maintained even before signing the contract and the confidentiality requirement remains valid

after the fulfilment of the contractual relationship. Legal disclosure obligations remain reserved.

The Customer shall refrain from any attempt to solicit any employee of eConnect either for the Customer or for any other third party.

## **6. Further provisions**

### **6.1. Appointment of third parties**

eConnect is entitled to appoint third parties in order to fulfill its contractual obligations. eConnect shall vouch for such supplies procured by third parties just as for his own.

### **6.2. Intellectual property and retention of title**

eConnect and possible licensor remain holder of all rights to the Delivery Items, descriptions, brochures, catalogues, plans, documents and media, including but not limited to patent rights, copyrights, trademarks and other intellectual property rights. The Customer acknowledges these rights of BRUGG and/or the licensor.

eConnect confirms that to its best knowledge all descriptions of Delivery Items, brochures, catalogues, plans, documents and media handed out to the Customer do not infringe any third-party rights. However, eConnect does not give any guarantee that the descriptions of Delivery Items, brochures, catalogues, plans, documents and media handed out to the Customer do not infringe any third-party rights.

The Delivery Items shall remain the property of eConnect until the Customer has properly fulfilled payment obligations and eConnect has received full payment as set forth in the contract. The Customer shall assist in all necessary measures to protect the property of eConnect. eConnect is entitled at any time to register the retention title to right of title in the competent retention of title register; and the Customer undertakes to without any delay perform any activities of cooperation required in this respect.

### **6.3. Severability**

If any part or provision of these General Conditions be held to be invalid or unenforceable by any competent arbitral tribunal, court, governmental or administrative authority having jurisdiction, the other provisions of these General Conditions shall nonetheless remain valid. In this case, the Parties shall endeavor to negotiate a substitute provision that best reflects the economic intentions of the Parties without being unenforceable.

### **6.4. Applicable law and jurisdiction**

All legal relationships between the Customer and eConnect shall be governed by substantive laws of Switzerland to the exclusion of the Vienna Convention on the International Sale of Goods dated 11 April 1980.

Exclusive place of jurisdiction shall be Brugg (Switzerland).  
However, eConnect reserves the right to take legal actions  
before the competent court at the seat or domicile of the  
Customer.

Brugg, January 01, 2020