

Standard Terms and Conditions of

Manfred Weber Metra Metra Meß- und Frequenztechnik in Radebeul e.K.

Valid from April the 1st 2020

1 General

1.1 All products and related services supplied by Manfred Weber Metra Meß- und Frequenztechnik in Radebeul e.K. (hereinafter referred to as „Metra“) shall be provided exclusively on the basis of and shall be subject to these Standard Terms and Conditions (hereinafter referred to as “Terms“). Metra hereby rejects any contract partner’s terms and conditions, even if they relate to subject matters that are not regulated by these Terms, unless Metra has expressly agreed to such contract partner’s terms and conditions in writing. If and to the extent to which any contract partner’s terms and conditions contain provisions on matters that are not regulated by these Terms, only the relevant statutory provisions shall apply. These Terms apply, even if Metra carries out deliveries without reservation, while being aware of a contract partner’s terms and conditions, which conflict with or derogate from these Terms.

1.2 These Standard Terms and Conditions shall only apply to business transactions with entrepreneurs (incl. Companies), legal persons under public law or public-law special estates in terms of §310 Subsection 1 of the German Civil Law Code (Bürgerliches Gesetzbuch “BGB”).

1.3 These Standard Terms and Conditions will also govern all future transactions with the contract partner within the scope of an ongoing business relationship.

1.4 The performance of the contract shall be subject to the review of and compliance with the government export and import regulations (including any required permits). The contract partner shall provide any such required documents at the request of Metra.

2 Conclusion of Contract, Scope and Delivery

2.1 Metra’s offers are not binding and subject to changes without notice. By placing an order, the contract partner will submit an offer in the legal sense. A contract shall not be deemed concluded until Metra accepts this offer by issuing a written order confirmation. Metra’s order confirmation will govern the scope of Metra’s deliveries and services.

2.2 Metra reserves all proprietary rights and copyrights in the illustrations, sketches, calculations and any other documents. These types of documents may not be disclosed to third parties without prior written approval of Metra. This shall also apply to documents which are not expressly designated as “confidential“.

2.3 The contract partner agrees to comply with the respective applicable national, European and international anti-terrorism regulations as well as the national (German Foreign Trade Act (AWG), German Foreign Trade Ordinance (AWV) and European (at the time these Terms take effect: Dual-Use Council Regulation (EC) No 428/2009). If an export license is required to be obtained from the competent authorities pursuant to the aforementioned regulations the contract partner shall apply for such a license autonomously and at its own expense and it shall notify Metra thereof.

3 Prices, Terms of Payment

3.1 Unless the order confirmation stipulates otherwise, prices are EXW Metra’s manufacturing facility in Radebeul, Germany, Incoterms 2010, and will include packaging, but exclude Value Added Tax, which is stated in the invoice separately at the applicable date of the invoice, as well as transportation and collection costs, cash-on-delivery costs and bank charges. The contract partner shall bear any public charges such as customs duties, legalization costs etc.

3.2 Unless stipulated otherwise in the order confirmation, payments shall be made net within 30 days of the invoice date without any deductions. Where the selected payment term is advance payment, Metra reserves the right to rescind the contract if it does not receive payment within 30 days from the date of the invoice proforma. The statutory regulations concerning the consequences of default in payment shall apply.

3.3 In the case of partial deliveries, Metra is entitled to issue partial invoices.

3.4 The contract partner shall only have a right to set-off if its counterclaims are adjudicated or uncontested by Metra. The customer may exercise a right to withhold or refuse payment only if its counterclaims meet the same conditions and, in addition, its counterclaim is based on the same contract.

3.5 Payment will be deemed to have been effected when Metra has the funds at its disposal.

3.6 If and when Metra has assumed an obligation to make advance deliveries and subsequently information about circumstances according to which Metra’s payment claim would be jeopardized by the contract partner’s inability to perform come to Metra’s attention, Metra has the right to either require the contract partner to provide a security within a reasonable period, of time or to demand that payment shall be made against delivery. If the contract partner does not comply with Metra’s request, Metra shall, without prejudice to any statutory rights, be entitled to rescind the contract.

4 Delivery

4.1 Deliveries are made EXW (Ex Works) Metra’s production facility at Meissner Strasse 58, DE- 01445, Radebeul, Germany, Incoterms 2010. Unless the contract partner provides specific written instructions otherwise with its order, Metra shall arrange freight of the goods by an independent forwarder. Freight of the goods shall be at the contract partner’s risk and the contract partner shall pay the shipping costs.

4.2 The risk shall pass to the contract partner with the notification sent to the contract partner informing the latter that the goods are ready for dispatch at Metra’s facility, at the latest with the handing over of the goods to the companies or persons charged with the transport. This shall also apply to partial deliveries.

4.3 Unless otherwise agreed, delivery times indicated by Metra are non-binding. Even if and to the extent that delivery times have been communicated to the contract partner as being binding, Metra shall not be held liable for delays in delivery if the contract partner has failed to duly and fully comply with its obligation to cooperate, particularly as regards the clarification of technical and other issues. Insofar as dispatch has been agreed, the delivery periods and delivery dates refer to the date of the transfer to the freight forwarder, carrier or any other third party entrusted with the transport.

4.4 Metra shall not be liable for any delivery delays caused by force majeure or by other circumstances for which Metra is not responsible – such as natural disasters, plant disruptions, strikes, lawful lock-outs, raw material procurement difficulties, and government decrees. Supply difficulties and other defaults on the part of an upstream supplier of Metra shall also be considered as force majeure, provided, however, that the upstream supplier on its part, is prevented by force majeure from the performance incumbent upon it. Any agreed delivery period will be extended for the duration of the hindrance. If the hindrance last for more than 30 days, the contract partner shall – after expiration of a reasonable grace period - be entitled to rescind that part of the contract which has not yet been performed. In the aforesaid case Metra shall have the same right after another 30 days from the occurrence of the delaying event. Benefits rendered by the contract partner are to be returned. Claims for damages shall be excluded.

4.5 If Metra is in default of delivery, the contract partner may only rescind the contract after a reasonable grace period set by the contract partner has lapsed unsuccessfully.

4.6 If the contract partner is found to be in default of acceptance or in breach of any other duty of cooperation, Metra will be entitled to claim compensation for any damages resulting from such failure including any additional expenses. Metra will be entitled to charge a lump-sum of 0.5% of the invoice amount per month, up to a maximum of 6% of the invoiced amount, for storing and maintaining the delivered goods or, alternatively, to claim compensation for the actual costs incurred. The risk of accidental destruction and accidental deterioration of the goods

passes to the contract partner at the point in time when the contract partner is deemed in default of acceptance.

4.7 Partial deliveries and performances shall be permissible, provided this does not conflict any discernible interest of the contract partner.

5 Retention of Ownership, Contractor’s Lien

5.1 Metra will retain title to the delivered goods until receipt of all payments arising from the business relationship with the contract partner. In the event of breach of contract by the customer, in particular default after a reasonable grace period has lapsed unsuccessfully, Metra will be entitled to repossess the delivered goods.

5.2 The cancellation of the contract does not exclude the assertion of claims for damages against the contract partner. After repossession of the delivered goods, Metra will be entitled to their disposition. The proceeds of the disposition will be credited to contract partner’s liabilities after deduction of reasonable disposition costs.

5.3 Metra shall remain the owner of the delivered goods until all due payments have been fully paid by the contract partner. Unless the purchase price has been fully paid, the contract partners shall not be entitled to sell the goods to any third party or to take any measures and actions endangering the property of Metra.

5.4 Any contract partner who is contractor in the sense of §14 of the German Civil Code (BGB), shall be entitled to sell goods not yet fully paid in the normal course of business provided that they, as re-sellers, receive immediate payment from their customers. Any claims with regard to such payments shall be deemed assigned to Metra. If the contract partner of Metra sells goods by methods other than against immediate payment, he shall oblige his customer to submit to this reservation of title. In such a case, the contract partner shall hereby assign any claims against his customer from the re-sale of the reserved goods to Metra up to an amount equaling the outstanding payments to Metra as security, without the need of an express declaration of assignment for each individual sale.

5.5 Metra shall have a right of lien with regard to its claims towards the contract partner concerning the movable objects of the contract partner manufactured or repaired by Metra, if such items came into the possession of Metra during manufacturing or repair (e.g. in connection with repair orders). The following shall apply for products returned for repair: Metra may (irrespective of whether the product was repaired or not) ask the contract partner to take back the products. If the contract partner is in default of acceptance if he has to take back the products and a request to take back the products has been delivered to the contract partner several times without success, Metra shall be entitled to assume that the contract partner has given up his ownership and utilize / scrap the product in question.

6 Quality, Warranty, Duty to Inspect the Delivered Goods

6.1 Upon passing of the risk the goods shall be of agreed quality. The agreed quality will exclusively be determined by the specific written agreement concerning the characteristics, features and specifications of the goods.

6.2 Information provided in sales catalogs, price lists or any other information material provided by Metra, as well as any other descriptions of the goods shall under no circumstances constitute a guarantee for any specific quality of the goods or services - such specific quality guarantees must explicitly be made in writing.

6.3 Metra reserves its right to make minor modifications to the goods, including modifications to color, form, size and material, unless other arrangements have been made between the parties and provided that such modifications do not impair their contemplated use. The same shall apply with regard to modifications that are due to legal provision and with regard to the substitution of components by equivalent components.

6.4 Any protective measures required due to particular conditions which exist in the contract partner's operational facility will be implemented at the contract partner's own expense. The same applies if installation, assembly and commissioning are done by Metra.

6.5 The contract partner's warranty rights (warranty claims) may only be asserted if the contract partner has inspected the delivered goods without undue delay upon receipt and has notified Metra in writing of any discovered defects after carrying out such inspection, or respectively of any latent defects without undue delay after their discovery, providing a detailed description of the defect (§377 of the German Commercial Code (Handelsgesetzbuch, HGB)).

6.6 With respect to goods or services which exhibit as defect during the warranty period, Metra will, at its option, either cure the defect at no extra charge, provide replacement goods or supplementary performance, provided the cause of the defect already existed at the time that the risk loss passed. Goods which have been replaced by Metra shall - on Metra's request - be returned to Metra.

6.7 If - for reasons that Metra is not responsible for - the contract partner wrongly issues a notice of defect, Metra will be entitled to charge the contract partner for any reasonable expense incurred for the identification and/or rectification of the alleged defect.

6.8 Any claims of the contract partner for reimbursement of expenses incurred for the purpose of supplementary performance, in particular costs of shipping, travel, labor and material, are excluded, if and to the extent that such costs were increased because the goods have subsequently been transported to a location other than the agreed place of delivery.

6.9 The warranty period in relation to all contract partners shall be 24 months for new items in each case starting at the time of passing of risk (e.g. at the time of handover of the goods to the forwarding company etc.). Any defects or damages caused by negligent or improper treatment or incorrect installation or non-compliance with the interface specifications given by Metra or the technical conditions specified on the relevant data sheet or the use of inappropriate accessories or any modification of the original parts by the contract partner or any third party not commissioned by Metra shall not be covered by the warranty. Natural wear shall also be excluded from warranty. Metra may request to examine defects and/or damages claimed about at the premises of the contract partner. Metra may also ask the contract partner to return any products claimed to be defective/damaged, incorrect or faulty for inspection and possible rectification/repair.

7 Liability and Damages

7.1 Subject to the provisions of Clause 7.4 Metra's liability for damages, irrespective of their legal grounds, will be limited as follows:

(1) For damages caused by a slightly negligent breach of material contractual obligation Metra will only be liable up to the amount of the typically foreseeable damage at the time of entering into the contract.

(2) Metra will not be liable for any damages caused by a slightly negligent breach of a non-material contractual obligation.

(3) Material contractual obligations are understood as such obligations that characterize the contract and on which the contract partner normally rely.

7.2 The contract partner shall take reasonable measures to avert and mitigate damages. The contract partner shall inform Metra without undue delay in writing about any costs, expenses and damages for which compensation is due.

7.3 Written and oral statements and information provided by Metra that regards suitability and application of its products will not release the contract partner from its obligation to assure by inspections and examinations the suitability of the offered products for the contract partner's use. Metra will not be liable for any damages or futile expenditures caused by advice that it has provided on the occasion of or in connection with the conclusion of a contract and that has not been provided within the scope of a contractual obligation, unless such advice has either been rendered under a separate written agreement, or the said damages or futile expenditures were caused by international or grossly negligent conduct on the part of Metra. Unless Metra is liable for intent or for grossly negligent conduct of its legal representatives or its executive staff, Metra's liability shall be limited to the foreseeable typically occurring damages.

7.4 The exclusions and limitations of liability as set out above do not apply to mandatory statutory liability, in particular to liability

under the German Product Liability Act (Produkthaftungsgesetz, ProdHaftG), nor to any liability for assuming a specific guarantee, nor to liability for maliciously concealed defects, nor to any liability for culpably caused personal injuries or death.

7.5 Wherever Metra's liability is excluded or limited, this shall also apply with regard to the personal liability of its representatives, employees and vicarious agents.

7.6 If and to the extent to which damage claims are not subject to the limitation period applicable to claims based on material defects, a limitation period of 24 months from the beginning of the statutory limitation period shall apply. This will not apply with regard to personal injury claims, liability for damages caused intentionally or by grossly negligent conduct, liability for characteristics guaranteed, liability for maliciously concealed defects, and with regard to liability under the ProdHaftG. In such cases the statutory limitation periods shall apply.

8 Confidentiality

8.1 The contract partner and Metra undertake to treat all and any business and technical information that is not general knowledge, other business and/or industrial secrets as well as any other confidential informations of the respective other contracting party to which they become privy during the business relationship, as confidential, and not to use it for any other but the contractual purpose. This confidentiality obligation shall not apply with respect to information that:

(1) is generally known to the public at the time of disclosure or becomes generally known through no wrongful act on the part of the receiving party;

(2) lawfully and without breach of any confidentiality obligation - to the best of the receiving party's knowledge - becomes known to the receiving party through a disclosure by sources other than the disclosing party or of one of its affiliates;

(3) has been developed independently by the receiving party;

(4) the receiving party is required to disclose to governmental authorities by applicable laws or

(5) that the receiving party is required to disclose by order of a court or regulatory authority.

8.2 The contract partner and Metra shall impose corresponding obligations on their employees, subcontractors, etc.

8.3 The contract partner and Metra must not use their business relationship for advertisement purposes without the respective other party's prior written consent.

9 Place of Jurisdiction, Place of Performance and Governing Law

9.1 The legal relations resulting from the contractual relationship including its Terms and Conditions and any litigation between Metra and the respective contract partner shall be governed exclusively by German law under exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).

9.2 The place of performance for any services derived from the business relationships with Metra shall be DE-01445 Radebeul, Germany.

9.3 The exclusive place of jurisdiction for any litigation (lawsuits initiated by Metra or against foreign contract partners or by foreign contract partners against Metra) resulting from the contractual relationship including its Terms and Conditions shall be the competent court for DE-01445 Radebeul, Germany in Dresden.

9.4 The contract partner losing lawsuit against Metra shall reimburse Metra for any litigation costs incurred.

10 Final Provisions, Data Protection

10.1 Should any of the above provisions be or become ineffective, the effectiveness of the remaining provisions shall remain unaffected. The ineffective provisions shall be replaced by provisions coming closest to the commercial purpose of the contract.

10.2 The contract partner may not assign or otherwise transfer all or any of its rights or delegate any of its obligations hereunder, in whole or in part, without Metra's prior written consent, unless the contract partner's interests are unreasonably impaired.

10.3 Where existent, only the German language version of any written document will be valid and binding.

10.4 Any data collected or required in connection with the purchase order concerning the contract partner of Metra shall be stored and processed in data processing facilities for the purposes of contract performance or handling of the transactions, taking into account the legal data protection regulations.