

Conditions of Sales and Deliveries

1. General remarks

- 1.1 Offers by Eclipse Microsystems GmbH are valid up to the expiration of the set time mentioned therein.
- 1.2 The contract is agreed and binding with the receipt by Eclipse Microsystems GmbH of the order in writing.
- 1.3 The purchaser is obliged to check each confirmation of an order regarding agreement with the order and has to advise Eclipse Microsystems GmbH of possible deviations in writing within 3 days. Without advice the content of the confirmation of the order is binding.

2. Prices

- 2.1 All prices are net in Swiss francs (CHF).
- 2.2 The delivery takes place in accordance with the confirmation of the order.
- 2.3 Taxes (tax on turn-over, value added tax etc.), duties as well as other dues and fees in connection with the delivery are for the account of the buyer.

3. Conditions of payment

- 3.1 Solely the due-dates in accordance with the confirmation of the order are valid.
- 3.2 Place of payment is the domicile of Eclipse Microsystems GmbH in CH-8123 Ebmatingen, Switzerland or of InterFactoring AG in CH-8307 Effretikon, Switzerland.
- 3.3 Deductions such as for example for discounts, expenses, taxes etc. are not permitted..

4. Restriction of ownership

- 4.1 Until complete payment of all claims (including those of earlier orders) and including collateral claims, claims due to replacement of damaged, the goods remain the property of Eclipse Microsystems GmbH.

5. Late payment by purchaser

- 5.1 In case the purchaser does not transmit a down payment or simple guarantees in accordance with the agreement , Eclipse Microsystems GmbH is empowered to delay delivery or to cancel the agreement and to request in both cases compensation for costs and damages.

6. Delay of delivery by purchaser

- 6.1 The purchaser has to take delivery of the goods on the agreed date.
- 6.2 In case of delay of delivery by the purchaser Eclipse Microsystems GmbH have the right, at their choice, after a lapse of 2 weeks delay to renounce at any time from the agreement and to request compensation of damage.
- 6.3 In case the purchaser is delaying acceptance of the goods he has to assume the costs of storage and possible further costs.

7. Place of settlement : transition of use and risk

- 7.1 Place of settlement is in every case the factory or the storage facility of the seller.
- 7.2 Use and risk are transferred to the purchaser with the departure of the shipment from the factory or the storage facility.
- 7.3 The transport takes place at the risk of the purchaser. This applies also in the case where Eclipse Microsystems GmbH assumes the costs for transport and insurance.

8. Delivery

- 8.1 Only the dates mentioned in the confirmation of the order are valid.
- 8.2 The maintenance of the delivery terms presupposes the fulfilment of the duties of the agreement by the purchaser.
- 8.3 Due to exceptional circumstances (for example failure of machines or of deliveries of raw materials, strike, natural catastrophies, war, acts of God) the delay of delivery is extended without ado until the obstacle is removed. In these cases the purchaser cannot request reimbursement of damages. Eclipse Microsystems GmbH and the purchaser have the right to renounce from the agreement without incurring financial compensation if the delay of delivery exceeds more than 2 weeks.

9. Inspection and acceptance of the goods

- 9.1 The purchaser has to inspect the goods immediately following their receipt whether they are free of deficiencies and has to inform Eclipse Microsystems GmbH at once in writing of possible objections. The notice has to reach Eclipse Microsystems GmbH at the latest 10 days following receipt of the goods..
- 9.2 Hidden deficiencies have to be brought to the attention of Eclipse Microsystems GmbH within 6 months at the latest following receipt of the goods.
- 9.3 In the case of a justified claim Eclipse Microsystems GmbH take back at their cost the deficient goods and replace them with faultless goods. If a replacement delivery is not possible, the agreement is nullified without financial compensation.

10. Exclusion of further liabilities by Eclipse Microsystems GmbH

- 10.1 All cases of breach of agreement and their legal consequences as well as all claims of the purchaser, indifferent of whatever legal reason, are regulated by the present conditions. Especially all not explicitly mentioned claims for compensation, decrease, annulation of the agreement or withdrawal of the agreement are excluded. In no case can the purchaser claim for compensation of damages, which are not in any way directly connected with the delivery goods themselves, such as loss of production, loss of using, loss of orders, lost profit as well as of other indirect or direct damages.
- 10.2 Cogent legal regulations are reserved.
- 10.3 If a user lays claims on Eclipse Microsystems GmbH under the aspect of producer liability, the purchaser indemnifies him as far as and provided the product defect cannot be led back to a defective delivered.

11. Place of jurisdiction and applicable law

- 11.1 The place of jurisdiction for the purchaser and for Eclipse Microsystems GmbH is the seat of Eclipse Microsystems GmbH. Eclipse Microsystems GmbH has the right to prosecute the purchaser at his seat.
- 11.2 The judicial relationship is under Swiss law.
- 11.3 The application of the agreement of the United Nations with regards to agreements on the international sale of goods ("Viennese right of purchase of 11 th April 1980) is excluded.