

## GENERAL TERMS – SCOPE OF APPLICATION

The contract shall be deemed concluded with the written acknowledgment of the supplier, that he accepts the purchase order (order confirmation).

Offers which do not state an acceptance deadline shall be non-binding.

These terms of sale and delivery (referred to in the following as delivery terms) are exclusively binding. Terms and conditions of the customer standing contrary to or differing from the delivery terms shall not be accepted, unless the supplier has particularly and expressly agreed to their validity in writing. The delivery terms shall also be valid, if the supplier unconditionally conducts the delivery to the customer, even though he has knowledge of terms and conditions of the customer standing contrary to or differing from the delivery terms.

All agreements and undertakings of legal relevance of the contracting parties shall be in writing in order for them to be valid.

## PLANS AND TECHNICAL DOCUMENTATION

Plans, drawings and descriptions etc. are protected by copyright, and they shall remain the intellectual property of the supplier. The customer may use these documents only for the purpose for which they were handed over to him. He may neither copy or reproduce them, nor hand them over or make them known to third parties without the consent of the supplier.

All details and information contained in product catalogs and price lists are only binding in as far as the contract particularly refers to them.

## PRICES

If not agreed differently, all prices shall be net ex works, without packing, in Swiss Francs (CHF), or if agreed, in EURO, with no deduction whatsoever.

All additional costs, such as for freight, insurance, export-, transit-, import- and other permissions / approvals, as well as for certificates, shall be debited to the account of the customer.

The customer shall also bear the burden of all kinds of taxes, contributions, charges, customs and the like, which are imposed or levied in connection with the contract, or he shall reimburse them to the supplier against corresponding proof, if the supplier has become liable for the payment of such.

The statutory value added tax is not included in the prices of the supplier; it shall be imposed separately according to the legal prescriptions of the country of the customer.

Costs for assembly and operational startup shall be borne by the customer without any special agreement.

The supplier reserves the right to price adjustment, provided that a fixed price valid for a limited period of time was not expressly agreed upon. The right to price adjustment after preparation of the final costing calculation shall be reserved for prototypes and special machines.

## TERMS OF PAYMENT

Payments shall be conducted in accordance with the separate, written offer or order confirmation.

The dates of payment shall also be observed and adhered to, if the shipment, the delivery, the assembly, the operational startup, or the acceptance of the deliveries or services are delayed or have become altogether impossible for reasons beyond the accountability of the supplier, or if insignificant parts are missing or if the necessity of subsequent work should arise, which would make the use of the deliveries impossible.

Down-payments or partial payments are only permissible if they have been expressly agreed.

If payments are not made or if securities are not produced by the customer as stipulated in the contract, the supplier shall be authorized to either adhere to the contract or to withdraw from the contract, and to demand the compensation of damages in both cases.

If the customer does not observe the set dates for payment, then he shall pay an annual default interest at a rate of 4% above the respective discount rate of the Swiss National Bank as of the due date of payment agreed, and without having been reminded. The entitlement to compensation of further damages remains untouched.

The customer shall only be entitled to offset, if his counter-claims have been legally confirmed, if they are undisputed or have been accepted by the supplier. He shall furthermore be entitled to exercise the right to retention only in as far as his counter-claim is based on the same contractual relationships.

## RESERVATION OF TITLE

The delivered object shall remain the property of the supplier until complete payment, provided that such reservation of title is effective according to applicable law.

Upon request of the supplier, the customer shall comprehensively support the supplier in his efforts to protect the right of ownership of the delivered object in the country in question.

The customer shall be obliged to sufficiently insure the delivered object at his own expense against damages resulting from fire, water and theft at a value as new. He shall furthermore take all steps necessary to ensure, that the entitlement to ownership of the supplier is neither impaired nor repealed.

## INSTALLATION AND REGULATIONS

The customer shall be entitled to the installation of the delivered object, in as far as such installation has been included in the offer. Before the installation of the article to be supplied, the supplier shall submit to the customer written guidelines for the necessary preliminary work. In the context of these installation works, the customer shall be obliged to comply with the valid professional and technical standards, and the guidelines of the supplier. The customer shall be responsible for the timely preparations necessary for the installation in accordance with the guidelines of the supplier.

With the purchase order, at the latest, the customer shall draw the attention of the supplier to the statutory, official (authoritative), and other regulations, which refer to the delivery, the assembly, the operation, as well as to accident prevention and to health and hygiene aspects (environmental protection / pollution control, waste-water, exhaust air, electrical regulations etc.).

## DELIVERY PERIOD

The delivery period shall commence, as soon as the contract has been concluded, all official formalities, such as import-, export-, transit- and payment permissions / approvals have been issued, the payments due at ordering have been made, the applicable securities have been produced, and the essential technical issues have been clarified. The delivery period shall be deemed as having been met if the ready-for-shipment note has been mailed to the customer until the deadline of the delivery period.

The fulfillment of the contractual duties by the customer is prerequisite for compliance with the delivery period.

If the delivery is delayed by circumstances based on force majeure, or by acts or omissions of the customer (or of a third party engaged by him), then a prolongation of the delivery period corresponding to the circumstances shall be granted.

A contractual penalty for belated delivery shall require a special written agreement. The contractual penalty can only be asserted if the supplier was provably responsible for the delay and the customer can prove damages incurred.

The claim for damage compensation shall be lumped together and it amounts to 0.5% for each complete week, but altogether no more than 5%, calculated from the contract price of the belated part of the delivery.

After having reached the maximum reimbursement for the delay, the customer shall, under the prerequisite that the article to be supplied has not been delivered yet, be entitled to grant the supplier an adequate delivery period of at least two weeks in writing. If this term is not met for reasons beyond the accountability of the supplier, then the customer can rescind the contract by written communication to the supplier with regard to that part of the article to be supplied which cannot be used as intended due to the delay caused by the supplier.

If the customer rescinds the contract, then he shall be entitled to compensation for the damage he has incurred due to the delay caused by the supplier. The total amount of the compensation, including the damage compensation lumped together, may not exceed 15% of the partial purchase price which corresponds to the part of the article to be supplied, with regard to which the customer has rescinded the contract. Further-reaching claims cannot be asserted by the customer against the supplier in the case of failing to deliver. All other claims against the supplier with regard to delays shall be excluded, provided that the supplier has not acted grossly negligent.

## PASSAGE OF BENEFIT AND RISK

Benefits and risks pass on to the customer at the latest upon shipment of the delivery ex works.

If the shipment is delayed by request of the customer, or for other reasons beyond the accountability of the supplier, then the risk shall be passed on to the customer as of such time, as was originally planned for the shipment ex works. The delivery shall be stored and insured at the expense and the risk of the customer as of this time.

## SHIPMENT, TRANSPORTATION AND INSURANCE

Shipment and transportation are carried out at the expense and the risk of the customer.

The customer shall direct complaints in connection with the shipment or transportation to the last carrier and the supplier immediately upon receipt of the delivery or of the freight documents. Complaints arriving later cannot be

accepted. The forwarding agency, the transport operator or the freight carrier shall prepare a signed damage protocol describing the damage.

Providing for insurance against damages of any manner is incumbent upon the customer.

## ACCEPTANCE

The customer shall inspect and examine the deliveries and services within an adequate span of time, and he shall immediately inform the supplier in writing about possible defects and faults. If he refrains from doing so, then the deliveries and services shall be deemed approved.

The time limit for inspection and claims commences, in the case of delivery ex works, as of issuance of the ready-for-shipment note, in case of direct delivery, as of the time the article to be supplied is delivered, or – if the installation is carried out by the supplier – as of issuance of the ready - status - report by the supplier to the customer. The customer shall bear the costs for inspection.

## WARRANTY

### WARRANTY TERM

For the goods, the supplier warrants a guarantee of 12 months for mechanical parts, or 12 months for electronic parts in single-shift operation or 2000 working hours as of date of ready - status. Wearing parts shall be excluded herefrom. The warranty term commences with the shipment of the deliveries ex works, and in case of installation by the supplier, as of issuance of the ready - status - report.

For replaced or repaired parts, the warranty term shall start to run anew, and it shall last for 12 months as of replacement.

The warranty term shall expire prematurely, if the customer or third parties carry out improper amendments or repairs, and also in case of improper care or if the wrong accessories are used.

### LIABILITY FOR DEFECTS AND FAULTS IN MATERIAL, CONSTRUCTION AND WORKMANSHIP

Upon written request of the customer, the supplier shall be obliged to repair or to replace at his own discretion or as he sees fit and as quickly as possible, all parts of the deliveries of the supplier, which have traceably become faulty or unfit for use until the warranty term has ended, as a result of bad or foul material, defective construction or unsatisfactory workmanship. The faulty parts shall be sent to the supplier free of charge / freight paid. Replaced parts shall become the property of the supplier. The supplier shall bear the costs of overhauling arising at his facilities. If the overhauling is not possible at the facilities of the supplier, the costs thus incurred for travel and assembly shall be borne by the customer.

### LIABILITY FOR WARRANTED CHARACTERISTICS AND PROPERTIES

Only those characteristics and properties which have been particularly described as warranted characteristics and properties by the supplier shall be regarded as such. The warranty shall be valid at the latest until the warranty term ends. If the warranted characteristics and properties have not been fulfilled, or if they have been fulfilled only in part, then the customer shall firstly be entitled to an immediate improvement by the supplier. If this improvement does not succeed, or if it succeeds only in part, then the customer shall be entitled to compensation, as has been agreed for such case. If the defect is of such serious nature, that it cannot be remedied within an adequate span of time, and if the delivery can only be used to a considerably reduced extent, then the customer shall be entitled to rescind the contract. The supplier may only be compelled to refund the amounts which have been paid to him for the parts affected by the withdrawal from the contract.

### EXEMPTION FROM LIABILITY FOR DEFECTS AND FAULTS

Damages which are not provably the result of bad or foul material, defective construction or unsatisfactory workmanship, e.g. because of natural wear, unsatisfactory maintenance, disregard of operating instructions, installations not carried out by the supplier, and also resulting from other reasons beyond the accountability of the supplier, shall be excluded from the warranty and the liability of the supplier.

For defects and faults in material, construction and workmanship, the customer shall not be entitled to any claims and have no rights, except for those explicitly mentioned in this section.

### DELIVERIES AND SERVICES OF SUB-CONTRACTORS / -SUPPLIERS

The supplier shall assume liability for deliveries of outside suppliers merely in the scope and to the extent of the warranty obligations of the sub-suppliers in question.

### PARTITION OF LIABILITY FOR DAMAGES CAUSED BY THE PRODUCT

The supplier shall not be liable for damages to property caused by the article to be supplied after having been delivered, if the article to be supplied already is in the possession of the customer. The supplier furthermore assumes no liability for damages to the products manufactured by the customer, or to goods which contain a product manufactured by the customer.

If the supplier is held liable by a third party for damage caused by the article to be supplied in accordance with the previous section, then the customer shall compensate, defend and indemnify the supplier.

The customer shall be obliged to point out dangers known to him to the supplier, which may arise from the usage of the article to be supplied. In as far as claims originating from product liability should arise, which are to be allocated solely to the behavior or a measure of the customer, then the customer alone shall bear the damages resulting therefrom, or he shall release the supplier from the claims resulting therefrom, and hold him harmless of such. The customer shall be obliged to take out corresponding insurance coverage.

## DISSOLUTION OF CONTRACT BY THE SUPPLIER

Should unforeseen circumstances arise, which would considerably change the economic meaning or the contents of the deliveries or performances, or which would have a considerable effect on the work of the supplier, as well as in the case of supervening frustration, then the contract shall be modified adequately. In as far as this should not be economically acceptable, then the supplier shall be entitled to cancel the contract, or the concerned parts of the contract.

In the case of cancellation of the contract, the supplier shall be entitled to remuneration for the deliveries and services already performed. The entitlement of the customer to damage compensation because of such contract cancellation shall be excluded.

## EXCLUSION OF FURTHER LIABILITY OF THE SUPPLIER – JOINT LIABILITY

Any further-reaching liability for damage compensation, as far as it is not particularly provided for in the delivery terms on hand, shall be excluded without consideration of the legal nature of the asserted claim. Under no circumstances shall the customer be entitled to assert claims for the compensation of damages, which have not occurred to the article to be supplied itself, to be specifically mentioned are loss of production, losses of use, loss of orders, profit losses, as well as of other indirect or proximate damages.

## FORCE MAJEURE

The supplier as well as the customer shall not be liable for the failure to comply with one of their contractual obligations, if this failure is based on grounds beyond their control, or if it is based on one of the following grounds in particular:

Fire, natural disasters, war, attachment, general raw material shortage, restriction of energy consumption, strike. The corresponding shall apply, if a subcontractor is threatened by these circumstances, and the contractual obligations can consequently not be fulfilled.

Each party shall be authorized to terminate the contract by written notice, if the performance of the contractual obligations is impeded by such an event for longer than three months. The option to terminate shall already exist, if it may be assumed as certain, that the contractual obligations cannot be fulfilled within three months as of due time of the obligation because of the nature of the event.

## MODIFICATION OF THE CONTRACT

If one of the provisions of these delivery terms should prove to be completely or partly ineffective, then the contracting parties shall replace this provision by a new agreement, which comes as close as possible to the legal and economic intention of the ineffective provision. The same shall apply for gaps and loopholes in the text of the contract.

## PLACE OF JURISDICTION AND APPLICABLE LAW

Place of jurisdiction for the customer and for the supplier shall be the location of the registered office of the supplier.

The supplier shall, however, also be authorized to take legal action against the customer at the location of the registered office of the customer.

The legal relationship shall be subject to material Swiss law under exclusion of the United Nations Convention on Contracts for the International Sale of Goods of 4-11-1980.

Felsberg, August 04th, 2003Dok:

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