

**1. General:** By placing an order with us, the customer recognises the Terms of Sale and Delivery as set forth hereafter. Any other terms and conditions, such as the customer's conditions are invalid in so far as they do conflict with present Terms of Sale and Delivery, unless we expressly consent to these trading conditions in written form. As a precaution, already at this stage we hereby object to any probably existing trading conditions the customer may have established. The supplier, irrespective of whether or not these are of tangible or intangible nature or exist in electronic form of what kind ever, retains title and reserves its copyright to samples, cost estimates, drawings and/or similar information and no such cost estimates, drawings and/or similar information must be disclosed to any third party whoever.

**2. Offers:** All offers are without obligation and subject to alteration. We reserve the right of ownership of drawings or other offer documents.

**3. Placing of orders:** An order is considered as placed if confirmed by us in writing. All supplements, amendments and subsidiary agreements, no matter whether made orally or on the phone, are valid only if confirmed by us in writing. All dates, dimensions, weights, pictures and descriptions must be indicated to the customer's best discretion, but without any obligation.

**4. Prices:** Our prices are ex works, net plus legal VAT rate excluding packing, freight and insurance. For deliveries with an amount smaller than EURO 150.00, we charge EURO 15.00 extra.

**5. Payment terms:** All payments must be effected within thirty (30) days net without deduction. Wage works and repairs are immediately payable net without deduction. With orders exceeding an overall contract amount of EURO 15,000.00 or orders that take a production time of more than three (3) months a payment on account in the amount of 1/3 of the order placed falls immediately due for payment upon receipt of order confirmation and payment on account invoice. In the event the customer is in default, the contractor is entitled – subject to the assertion of further compensation – to charge the customer with interest rates in the amount of such rates as usually charged by commercial banks for open overdrafts including usual commission. The customer is not allowed to withhold payments or to claim set-off by reason of cross-claims probably denied by the supplier. Any deterioration of customer's ability to pay or inobservance of the agreed payment terms will entitle us to demand provision of security for all supply contract claims, irrespective whether fallen due or not.

**6. Delivery term:** The delivery term starts running as soon as both parties have come to terms about all conditions of their deal. The delivery term limit is considered as observed if the object of delivery has left the supplier's works before date the delivery term expires or if the supplier has notified the customer of his readiness for shipment. Observance of the delivery time is subject to the proper fulfilment of the customer's contractual obligations. In the event we should fail to deliver or if we get into delay with our performances, the customer shall concede us a reasonable additional period of time along with his statement saying that he will refuse to accept said performances after expiry of this additional time. In case this grace period is not complied with the customer shall be entitled to terminate the agreement. All agreements probably made in regard to penalties have to be stipulated in an individual contract. Any unforeseen events that are not within our control, such as operational break-downs, strikes or lockouts, no matter whether occurring in our works or with any of our subcontractors, shall reasonably extend the delivery term, even if occurring at a time where the supplier is in delay with his delivery. Partial consignment is admissible.

**7. Risk taking:** If the customer has been notified of our readiness to ship the consignment or if the consignment is delivered to the forwarding agent the risk passes on to the customer, i.e. when leaving our works at its latest, even if carriage paid delivery was stipulated. Unless agreed otherwise, we shall – in the customer's name and at his expense – take out an insurance coverage against loss and transport damages.

**8. Packing:** Packing is billed at cost and will not be taken back.

**9. Reservation of ownership:** We reserve the right of ownership of the object delivered till all payments to be effected under the delivery contract have been received. In the event the customer acts contrary to the terms of the agreement, especially in case of failure to pay on due date, we shall – after giving notice to the debtor – be entitled to take the object of delivery back and the customer be obliged to return it. Unless the Hire-Purchase Act is applicable, the taking back of the object of delivery or the seizure of it implies the re-scission of the agreement from our side only if explicitly stated in writing. In case the customer's property or assets are subject to an order of attachment, the customer must notify us immediately thereof. The customer must neither pledge nor transfer the goods ordered by way of security. However, he already now assigns to us all claims that might accrue from it against his own client or third party whoever, regardless whether or not he resells said goods under reservation of ownership without or after any further modification or treatment. In the event a petition for insolvency proceedings has been filed, the supplier shall be entitled to withdraw from contract and to demand prompt restitution of the goods ordered. The customer is entitled to collect any such claims even after the above assignment. This, however, does not affect our qualification to collect the claim ourselves, but we oblige ourselves not to collect any such claims as long as the customer duly fulfils his obligations to pay. We may demand the customer to notify us of the assigned claims and of the corresponding debtors and to provide all necessary information for the collection of the receivables and to inform his debtors thereof. If the object of delivery is resold together with goods not owned by us the customer's claim against his own client is considered as assigned to us at a rate equivalent to the delivery price agreed between us and our customer. In case the customer treats or modifies the goods delivered under reservation of ownership, any such treatment or modification is made on our behalf. If the

object delivered under reservation of ownership is combined or supplemented with other objects not in our ownership, we shall acquire fractional ownership, this is to say on a pro rata base in regard to all other new attached or new included objects at the time they have been processed, treated, assembled, fixed, joined or mounted otherwise. The same as set out hereinbefore in regard to the goods delivered under reservation of ownership shall apply for the new object thus created. During the time we own the goods delivered under reservation of ownership the customer is obliged to take out an insurance to assure the object of delivery against theft, fire and water hazard as well as against any other damages and must send us a notification thereof. In case the customer fails to do so, we ourselves shall be entitled to take out corresponding insurance on his behalf. The reservations of ownership including the securities we are entitled to shall be valid and operative until complete release from any contingent liability whatsoever that we have assumed in the customer's interest: We hereby oblige ourselves to release the securities we are entitled to in as far as their overall value exceeds the unsettled claims to be secured by more than 20%.

**10. Right of pre-emption:** In the event of a close down of the customer's operations or if bankruptcy proceedings have been instituted against his company or if his company is wound up, we shall – in regard to all goods delivered by our company – be entitled to exercise the right of pre-emption.

**11. Liability of defects:** To the exclusion of further claims we assume liability for deficiencies of the delivery including absence of explicitly warranted qualities in such manner as follows: we shall, at our reasonably exercised choice and discretion, either repair or replace all those parts free of charge that have proven unserviceable or the serviceableness of which turned out to be a significant impairment and shall do so within twelve (12) months as of the date of the passing of the risk if any such failure is owing to reasons occurred before said date, particularly if attributable to imperfect construction, to bad construction materials or a deficient make. If any such deficiencies are detected the customer must notify us immediately thereof. Replaced parts shall pass into our ownership and, if requested, must be returned to us free domicile. We deny any liabilities whatsoever attributable to any inappropriate or inexperienced use, imperfect mounting or commissioning by the customer or third parties whoever or to natural wear, incorrect or negligent treatment, use of inappropriate operation material, substitute materials, deficient construction works, chemical, electrochemical or electric influences, if these are not due to our own fault. We do not assume any liabilities and shall not be responsible for any consequences that might probably arise if the customer or any third party whoever undertakes to perform repair works or modifications without our explicit prior consent. If we fail to comply with an additional period of time a customer has granted us for the repair of a deficiency attributable to us or to provide replacement, the customer shall be entitled to cancel the agreement. The customer is also entitled to rescind the agreement in case the repair or the replacement is impossible or if we should be unable to perform it. With unjustified claims in respect to defects requiring to make comprehensive investigations and inspections the cost for any such investigations will be billed to the customer. Further claims raised by the customer, in particular compensation for damages not occurred at the object of delivery itself are excluded. This exclusion of liability shall not be operative in case the above damages are attributable to actions of the owner or its executives and have been motivated by intention or gross negligence or if there is an infringement of essential contractual obligations. In the event of a culpable infringement of essential contractual obligations, the supplier is – to the exclusion of actions motivated by intention or gross negligence – only liable for contract specific, reasonably foreseeable damages. In addition, the above exclusion of liability does not apply for any cases where liability is incurred pursuant to the Product Liability Act for deficiencies of the object of delivery or for personal injury and damage to private property. Also, it shall not apply if explicitly guaranteed qualities are missing and if it is the purpose of this guarantee to insure the customer against any damages not occurred at the object of delivery itself.

**12. Limitation of the right of action:** All claims the supplier may be entitled to, no matter on what legal grounds, shall, unless not otherwise provided by imperative provision of the law, become statute-barred after 12 month.

**13. Place of delivery and payment, place of jurisdiction:** Place of delivery and payment is **Weinfelden**. The court having venue shall be the competent court at the headquarters of the supplier's undertaking. We shall nevertheless be entitled to file an action before court with any competent court having venue at our own and thus the customer's head office.

**14. Applicable law:** Any contractual relationship under these terms of sale and delivery is subject to the **Swiss law**. Application of united nations convention on contracts for the international sale of good excluded.

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