

GENERAL TERMS AND CONDITIONS

Siconnex customized solutions GmbH (31.05.2011)

1. Acceptance of Orders

1.1 Acceptance and performance of purchase orders shall be exclusively subject to the following terms and conditions, unless these are expressly modified in writing by both parties.

These terms and conditions shall also apply for all pursuing orders even if these are not expressly agreed upon anew. General terms and conditions of the Purchaser which are inconsistent herewith shall be inapplicable to the Supplier. Reconfirmation from the Purchaser with reference to his general terms and conditions are herewith deemed not applicable. The Incoterms 2010 shall apply.

1.2 Purchase orders shall only become binding on the Supplier when confirmed by him in writing. The same shall apply to modifications of purchase orders. The Supplier shall, however, be entitled to accept a purchase order by commencing performance without prior order confirmation. Acceptance may be made within a reasonable period after receipt of the order.

1.3 The sales staff of the Supplier shall neither be authorized to conclude verbal collateral agreements nor to give verbal assurances beyond the extent of the content of the written Contract.

2. Object of Sale

2.1 The object of sale shall finally be determined by the specification in the order confirmation. Slight deviations or technical improvements of the delivered goods shall not constitute a lack of conformity with the contract.

2.2 Drawings, sketches, measurements, weights or other performance ratings shall only be binding if expressly agreed upon in writing.

3. Price, Payment Conditions

3.1 The prices and payment conditions specified in the order confirmation shall apply and are valid for thirty (30) days from the date of quotation. In the event that the Purchaser does not receive an order confirmation or such confirmation does not indicate prices, either the list prices of the Supplier effective at the time of delivery or, if no such list prices exist, the prices normally quoted by the Supplier at such time shall apply.

3.2 Prices shall always be understood ex works (EXW) plus delivery and packing costs, taxes and other charges pertaining to the delivery.

3.3 Payments shall be effected in the currency as quoted in the invoice. In the event that the currency stated in the invoice differs from the order confirmation, the Purchaser shall also have the right to effect payment in the currency stated in the order confirmation.

3.4 The contracting parties agree on a no set-off clause, which means that the Purchaser shall not be entitled to set off its own claims, based on whatever grounds, against claims of the Supplier under this contract...

3.5 The purchase price shall be – provided that no extended period for payment is granted - transferred to the Supplier's account as specified in the invoice within 30 days of the invoice date, free of costs and without deductions. Default in payment of more than thirty days constitutes a fundamental breach of contract. If the Purchaser is in default of any agreed payment or other performance, the Supplier shall be entitled either to demand performance of the contract and (a) to postpone fulfilment of its own obligation until payment of the arrears or other performance, (b) to extend the delivery period accordingly, (c) to call for immediate payment of the total outstanding purchase price, (d) to charge default interest at the rate of eight percent above the relevant base interest rate of the European Central Bank from the relevant due date, or (e) to rescind the contract after having granted a reasonable grace period.

4. Delivery, Carriage, Acceptance, Risk Transfer

4.1 The goods shall be delivered EXW (ex works) Supplier's workshop provided that no other delivery terms or another place of delivery is specified in the order confirmation. The risk shall pass from the Supplier to the Purchaser at the time the goods are made available to the Purchaser. This shall also be the case if the Supplier helps the Purchaser load the goods. Carriage of the goods to the Purchaser and related formal requirements shall be dealt with by the Purchaser, unless this is expressly assigned to the Supplier specified in the delivery clause of the order confirmation.

4.2 The time of delivery is specified in the order confirmation. If delivery of the goods is delayed due to force majeure or occurrences that make it - not only temporarily – substantially difficult or impossible for the Supplier to deliver, this applies in particular to strikes, lockouts, official regulations and so forth, even if they shall occur at the sub-suppliers of the Suppliers – the Supplier shall not be held liable even for binding periods of time and deadlines. They entitle the Supplier to postpone the delivery by the duration of the hindrance plus a reasonable time phase or to withdraw either completely or partly from the contract, proportionate with the non-fulfilled part.

4.3 In the event that the hindrance lasts longer than three months, after setting a reasonable extension, the Purchaser is entitled to withdraw from the non-performed portion of contract. If the time of delivery is extended or if the Supplier is released from his obligation, the Purchaser cannot derive any claims for compensation there from.

4.4 As long as the Supplier is liable for the non compliance of binding periods and deadlines or is in default, the Purchaser has the right to claim for compensation for default in the sum of ½ % for every completed week of delay, however, a total of maximum 5 % of the invoice value of the deferred goods. All further claims are excluded, unless the delay is at least attributable to serious gross negligence of the Supplier.

4.5 The Supplier is entitled to partial deliveries at all times unless otherwise agreed upon in writing.

4.6 The compliance with delivery obligations of the Supplier necessitates the punctual and correct compliance of the obligations of the Purchaser.

4.7 If delivery of the goods is delayed by the Supplier due to a breach of obligation by the Purchaser, risk shall pass to the Purchaser once the period has elapsed within which delivery would have been effected according to the contract had such breach not occurred. If the contract, however, relates to no identified goods, risk shall only pass once the goods are clearly identified to the contract and the Purchaser has been notified thereof by the Supplier. The Passing of the risk shall occur notwithstanding a fundamental breach committed by the Supplier. In the event of default by the Purchaser, the Supplier is entitled to claim for compensation for the loss and damages incurred.

5. Warranty

5.1 EXCEPT IF ESPECIALLY OTHERWISE AGREED, SUPPLIER UNDERTAKES NO WARRANTY FOR USED GOODS DELIVERED TO PURCHASER, AND THE PURCHASER HEREWITH WAIVES ANY CLAIMS HE MAY HAVE UNDER APPLICABLE LAW.

For new goods, Supplier warrants that the Goods are free of manufacturing or material defects. The warranty period shall be one year from the delivery date.

DISCLAIMER: IF NOT ESPECIALLY OTHERWISE AGREED; THE SUPPLIER UNDERTAKES NO RESPONSIBILITY FOR MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

5.2 In the event that operation or maintenance instructions of the Supplier are not complied with, or if the goods are modified or parts either replaced or applied in a manner that does not comply with the original specifications, then the warranty shall not apply, unless the Purchaser disproves a substantiated corresponding assertion of Supplier that at least one of these circumstances has led to the defect.

5.3 The Purchaser shall upon receiving the goods immediately notify the Supplier in writing of lack of conformity, at the latest, however, within one week. If - regardless appropriate examination - a lack of

conformity of the goods is impossible to find within such period, the Supplier shall be notified in writing without undue delay.

5.4 In the event of a notification from the Purchaser of a lack of conformity of the goods, the Supplier shall demand that upon his discretion and at his expense:

- a) The faulty part or device is sent for repair to the Supplier and afterwards returned to the Purchaser;
- b) The Purchaser keeps the faulty part or device available so that a service technician of the Supplier is assigned to the Purchaser in order to perform repair work.

In the event that the Purchaser requests that the warranty work shall be performed elsewhere as selected by him, the Supplier can comply with such request, whereas the items within the scope of the warranty shall not be charged; working time and travel expenses, however, shall be payable in accordance with the standard rates of the Supplier.

5.5 In the event that the repair work is not successful within a reasonable period of time, the Purchaser is entitled to demand a reduction of the price or cancel the contract.

5.6 A liability for normal wear and tear is excluded.

5.7 Warranty claims towards the Supplier shall solely be claimed by the direct Purchaser and are not transferable.

5.8 The above clauses contain the warranty obligations of the Supplier for the goods and exclude any other warranty claims whatsoever.

5.9 SOFTWARE

The following terms and conditions shall apply where Supplier supplies software with goods:

The title to all software (including programs and documentation) furnished by Supplier shall be retained by Supplier. Said software shall be used only on the specific good(s) with which it was supplied. Use of the software shall consist either of copying any portion of the program from storage units or media into the CPU, or the processing of data with the program, or both. Purchaser agrees to comply with any other restrictions on use of the software which may be promulgated by Supplier and provided with the software.

Purchaser may make up to two (2) copies of Supplier supplied machine-readable software for backup and archival purposes, but shall not copy or duplicate, or permit anyone else to copy or duplicate, in any manner, any physical or magnetic version of Supplier-supplied machine-readable software. Purchaser shall not copy or duplicate any printed materials related to and furnished with Supplier-supplied machine-readable software. Purchaser shall secure and protect the software, and each copy thereof, from unauthorized copying or disclosure.

No licenses or rights are granted except as set forth herein or in Supplier's software or program license agreement. Any license to use Supplier-supplied software may not be assigned by Purchaser without Supplier's prior written consent.

SUPPLIER DOES NOT WARRANT THAT ANY SOFTWARE IS FREE OF ERRORS OR "BUGS". EXCEPT AS PROVIDED HEREIN, SUPPLIER MAKES NO WARRANTY, EXPRESSED OR IMPLIED, WITH RESPECT TO THE SOFTWARE AND SPECIFICALLY DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

In the event any software fails to comply with special warranties given by Supplier, Supplier's sole obligation, and Purchaser's sole remedy, shall be for Supplier to exert its best efforts to correct any such defect and to supply Purchaser with a corrected version within a reasonable time after Purchaser notifies Supplier in writing of the defect.

5.10 PROPRIETARY INFORMATION AND TECHNOLOGY RIGHTS

Any documentation, data, or information of any kind supplied by Supplier to Purchaser shall be deemed proprietary to Supplier and treated as confidential by Purchaser. Supplier retains for itself all proprietary rights in and to all Confidential Information. Without Supplier's written consent Purchaser

shall not disclose such Confidential information to any other person, or use such confidential information for any purposes other than performing under this agreement. Purchaser shall return all confidential information, together with all copies thereof, to Supplier at Supplier's request. The obligations under this paragraph shall survive the cancellation, termination or completion of this agreement. Supplier may, at its sole option, require Purchaser to execute a separate confidentiality agreement acceptable to Supplier as a condition to providing any documentation or data which it considers proprietary or confidential.

Confidentiality Obligations shall not apply to such information that the Purchaser has provably already possessed before disclosure by the Supplier, or been a matter of common knowledge at the moment of their disclosure to the purchaser or has subsequently become known to the public without the Purchaser's cooperation or default legally acquired access to such from third parties not bound by any secrecy obligation whatsoever towards Supplier.

All products, information and technology produced, conceived or otherwise developed by or for Supplier, or as a result of technology furnished by Supplier, shall be the sole property of Supplier, and Purchaser shall have no ownership or other rights in such property. Purchaser agrees to use such products, information and technology only in connection with goods or services furnished by Supplier and otherwise to retain them as confidential in accordance with the provisions above. Purchaser, at its cost, hereby assigns to Supplier all right, title and interest in all inventions, trade secrets, patents, mask works, copyrights, trademarks and other intellectual property developed by or for Supplier in connection with the conception, design, development or manufacture of goods or services and shall fully cooperate with and assist Supplier in perfecting such rights. The sale of goods or services hereunder by Supplier does not convey any license under any patent, copyright, trade secret or other proprietary right with respect to which Supplier can grant licenses. Supplier expressly reserves all of its rights with respect to such patent, copyright, trade secret and/or other proprietary rights.

6. Impediment to Performance, Insolvency, Bankruptcy

6.1 To the extent that the Supplier is not liable for failure to perform any of his obligations because failure was due to an impediment beyond his control, the Purchaser is not entitled to claim damages or losses nor pursue any other solution for remedy.

6.2 The Supplier shall be held liable for his own suppliers only to the extent that he is responsible for other third parties involved by him in the performance for all or part of the contract.

6.3 If the Purchaser stops or suspends payments, or if a petition to commence insolvency proceeding is filed or equivalent proceedings provided by the laws applying to his business are initiated, the Supplier may cancel the contract in whole or to the non-performed extent. The same right shall apply if circumstances shall become known to the Supplier which raises doubt on the creditability of the Purchaser.

7. Third Party Claims

7.1 The Supplier shall not assume liability that the goods are free from rights or claims of third parties based on industrial property rights or other intellectual property rights. The Purchaser shall be exclusively responsible to verify any industrial property or other intellectual property rights existing in the country of destination. The Supplier shall inform the Purchaser upon request about the existence of such rights based on industrial property or other intellectual property in the country of destination to the extent known to the Supplier.

7.2 The Supplier shall be relieved from any liability under this article, provided that he has not fraudulently concealed such deficiencies.

8. Reservation of Title

8.1. The Supplier shall retain title to the object of purchase until full settlement of all financial obligations of the Purchaser. The Purchaser shall comply with the necessary formal requirements to safeguard retention of title. The Purchaser shall take all measures necessary to secure the property of the Supplier or to procure equivalent security rights in the country of his place of business or in any other country of destination and he shall provide related evidence whenever requested by the Supplier. In the case of attachment or other use the Purchaser shall be obliged to claim the Supplier's

title and to inform the Supplier immediately. In the case that goods to which title is retained are resold the Purchaser shall be obliged to pass on such retention of title and to inform the buyer of the Supplier's title.

8.2. The Purchaser shall be obliged to handle the object of purchase with due care until the title passes to the Purchaser. The Purchaser shall in particular be obliged to take out sufficient insurance for the object of purchase against theft, fire and water damage based on its reinstatement value and at its own cost. If maintenance and overhaul work has to be carried out, the Purchaser shall carry out such work at its own cost and in a timely manner.

8.3. If the object of purchase is resold subject to retention of title the Purchaser shall assign the claim vis-à-vis its buyer to the Supplier already at this point. The Supplier undertakes not to collect claims as long as the Purchaser fulfils its payment obligations and is not in default of payment.

8.4. If the object of purchase is combined with other objects and/or inseparably connected with land, it shall be deemed agreed that the Supplier receives co-ownership of the complete product on a pro-rata basis. For securing the Supplier's claims the Purchaser shall also assign claims to the Supplier which accrue to the Purchaser vis-à-vis third parties through connection of the object of purchase to a plot of land.

8.5. Non-compliance with such obligation constitutes a fundamental breach of contract. All costs incurred pertaining hereto shall be borne by the Purchaser.

9. Undertaking to Co-operate

The parties mutually undertake to take all reasonable means to achieve the purpose of this contract and to refrain from any adverse acts or omissions.

10. Liability of the Supplier

The Supplier - as well as third persons performing tasks under this contract - is only obliged to compensate damages or losses pursuant to this contract or extra contractually if it deliberately or in circumstances amounting to gross negligence breaches obligations owed to the Purchaser. This shall also apply to warranty claims and claims for compensation for non-performance. All liabilities shall be limited to the loss foreseeable at the time of conclusion of contract. Liability for indirect or consequential losses shall herewith be excluded. In any event, a liability of the Supplier according to the law on products liability and other compulsive regulations emanating from manufacturers liability shall not be affected.

The Supplier shall be liable for damage beyond the scope of application of the Austrian Product Liability Act [*Produkthaftungsgesetz/PHG*] only if such damage was provably caused by it wilfully or with gross negligence and according to the statutory provisions. Liability for ordinary negligence and consequential damages and pecuniary damages, compensation for savings not made, loss of interest and damage caused by claims of third parties vis-à-vis the Purchaser shall be excluded.

Within the scope of application of the Austrian Product Liability Act the Supplier shall only be liable for bodily injury and damage to property suffered by a consumer. The Supplier, its upstream suppliers and other suppliers shall not be liable for damage to property suffered by an enterprise. Liability for consequential damage and pecuniary damage within the scope of application of the Austrian Product Liability Act and a refund (Section 12 *PHG*) shall be excluded.

Liability per loss shall be limited to the amount insured under the business liability insurance. A single loss shall mean the total claims for damages of all persons entitled on the ground of one and the same action or the total claims which are asserted by one person on the ground of different actions related legally or business-wise, or the total claims from a single damage or loss which was caused by one or more actions.

LIMITATION OF LIABILITY: IN NO EVENT SHALL SUPPLIER'S LIABILITY TO PURCHASER FOR BREACH OF THIS AGREEMENT EXCEED THE PRICE OF THE GOODS OR SERVICES PURCHASED BY PURCHASER UNDER THE RESPECTIVE ORDER.

NOTE: PURCHASER AGREES TO THE EXCLUSION OF ANY LIABILITY OF SUPPLIER RELATED TO THE DELIVERY OF USED GOODS.

11. Termination of the purchase contract for fault of the Purchaser

If the contract is terminated for fault of the Purchaser, the Supplier shall be entitled to demand a compensation payment from the Purchaser in the amount of 40% of the net purchase price in addition to compensation for the damage actually caused, independently of its right to demand performance.

12. Dispute resolution, Place of jurisdiction, applicable law, place of performance

12.1. In the event of disputes arising out of or in connection with the contract, including disputes on its conclusion, effectiveness, amendment or termination, both parties will try to reach an amicable settlement. In the event that the dispute shall not be solved within one month after one party has asked the other to settle the dispute, all legal measures provided by the applicable provisions can be taken.

12.2. The place of jurisdiction for all disputes indirectly or directly arising out of the contract shall be the court in Austria having jurisdiction over the Seller's registered office. Nevertheless, the Seller may also bring the matter before a different court which has jurisdiction over the Purchaser.

12.3. The contract, all disputes and all legal relationships between the Seller and the Purchaser shall be subject to Austrian law, and the conflict of laws rules of Private International Law and UN Sales Law shall be excluded. In the case that the Agreement was drafted in several languages, the German version shall be decisive for interpretation.

12.4. The place of performance for deliveries and payments shall be the Seller's registered office, even if delivery was agreed to take place at a different place or actually takes place at a different place.

13. Miscellaneous

13.1 Communications between the parties shall only be binding if made in writing and in either German or English. Communications may be transmitted by fax or by electronic means. They shall become effective at the time when they reach the recipient or would have reached him under normal circumstances with the means of transmission used. Communications reaching the Supplier on a Sunday or on an official public holiday at the place of his business or on a Saturday shall become effective on the next following working day.

13.2. If any provision of these General Terms and Conditions or individual terms of a purchase order placed on the basis of these General Terms and Conditions is void or *contra bonos mores* or becomes invalid, the validity of the remaining provisions shall not be affected. The contracting parties undertake to replace those provisions by provisions which come as close as possible to the void provisions or the provisions *contra bonos mores* and their economic purpose.