

General Terms and Conditions of Sale and Delivery of the Kdesign GmbH

1. General - Scope

1.1. These General Terms and Conditions of Sale and Delivery shall apply to all existing and future business relationships between the supplying entity of the Kdesign GmbH ("Supplier") and Purchaser and, in particular, to all quotations, contracts, deliveries and other services provided by the Supplier. In the case of a standing business relationship, the General Terms and Conditions of Sale and Delivery shall also constitute an integral part of the parties' contract, even where no express reference thereto has been made. These Standard Terms and Conditions of Sale and Delivery shall be deemed accepted at the latest upon the receipt of the goods or the service performed.

1.2. The Supplier hereby rejects any Purchaser's terms and conditions which contradict the Supplier's General Terms and Conditions of Sale and Delivery. Such provisions shall not form part of the contract and shall be inapplicable even if contained in any letter of confirmation following the Supplier's order confirmation and not rejected by the Supplier.

1.3. In order to be legally binding, any verbal or telephone agreements varying from the General Terms and Conditions of Sale and Delivery must be confirmed in writing by the Supplier. The same shall apply to additional agreements and commitments made by the Supplier's representatives and employees where these are only binding at the time the Purchaser receives the written confirmation.

1.4. Any and all agreements and legally relevant declarations made by the contractual parties must be made in writing in order to be valid. Notifications and declarations communicated by email or fax satisfy the written form requirement.

2. Offer and conclusion of contract

2.1. Quotations issued by the Supplier shall always be non-binding and without obligation, i.e. they are to be understood merely as an invitation to submit an offer. Acceptances and all orders shall be legally effective only if confirmed by the Supplier in writing or if the Supplier actually performs the delivery.

2.2. The scope and the execution of the Services shall conform to the order confirmation - insofar as one exists. After the Supplier has issued the order confirmation the Purchaser shall be no longer be entitled to cancel the order.

2.3. Additional agreements, amendments and additions to these General Terms and Conditions of Sale and Delivery shall only be valid if confirmed in writing by the Supplier.

3. Technical specifications, advertising, confidentiality

3.1. Any and all technical documents such as drawings, specifications, illustrations, including any information as to dimension, properties or weight and specifications and illustrations in the Supplier's quotations, brochures, advertisements, catalogues and other public statements, promotions or advertising are only provided for the purpose of information and remain non-binding. Guarantees and assurances by the Supplier shall be confirmed exclusively in writing and designated as such.

3.2. The Supplier reserves all property rights and copyrights with respect to cost estimates, illustrations, drawings and other technical documents. Such documents may not be made available to third parties and may be used only for the purposes agreed or indicated by the Supplier. The foregoing shall apply, in particular, to written documents that are marked "confidential" by the Supplier. The Purchaser must obtain the Supplier's express written consent prior to distributing the same to third parties.

3.3. The Purchaser undertakes not to reverse-engineer or copy (or have re-engineered or copied) at any time in the future goods or parts thereof. The term "copying" within the meaning of this clause 3.3 includes in particular, but without limitation, the design or manufacture of products similar or comparable to the goods by using the same system or mode of operation. The Purchaser furthermore undertakes not to make the goods or parts thereof accessible to third parties nor to disclose the function or mode of operation of the goods or parts thereof to third parties, unless these third parties are entrusted with regular cleaning or servicing work and are obliged to maintain confidentiality.

4. Dimensions, tolerances and statutory standards

4.1. Unless a varying written agreement has been made between the Purchaser and the Supplier, the dimensions and tolerances of the goods shall be based on the appropriate industrial or in-house standards and/or product specifications of the Supplier. If the Purchaser demands farther-reaching inspections, these must be agreed in writing and paid for by the Purchaser.

4.2. The goods shall fulfil the mandatory provisions of the country of the Supplier's registered office applicable at the time of the conclusion of contract and which must be complied with in order for the goods to be usable. Statutory standards or other provisions issued by the country in which the Purchaser is resident or by the country in which the goods shall be used, to the extent as this is not the country of the Supplier's registered office, are not known to the Supplier and are therefore not taken into account by it during the execution of the contract, unless the Purchaser has provided information in accordance with Sec. 4.3. The failure to conform to such standards and provisions shall therefore not be deemed to constitute a lack of conformity of the goods.

4.3. No later than by the time the purchase order is submitted, the Purchaser shall provide the Supplier with specific and detailed information of local statutory or other such regulations which the Supplier is obliged to fulfil during the performance of the contract and for compliance with the safety and approval regulations.

4.4. Waste materials may be produced during operation of the contractual item, the disposal of which may be subject to public authority requirements. The disposal of such materials in accordance with such requirements shall be the obligation of the Purchaser and shall be performed at its expense.

5. Price and payment

5.1. Prices do not include packaging and, where applicable, value-added tax at the respective statutory rate on the day of invoicing. The Purchaser shall bear all taxes, fees, contributions, costs for approvals as well as certifications or other fiscal or official charges directly or indirectly levied in connection with the contract, its conclusion or its performance.

5.2. Unless otherwise agreed payments shall be made without any deductions and free of transaction charges to the Supplier:

- 40% down payment upon receipt of the order confirmation;
- 60% as soon as the Purchaser is notified that the main parts of the contract is ready for shipment.

Payments for services are payable immediately.

5.3. To the extent the Supplier's compensation has not been finally agreed, its prices valid on the day of delivery shall apply. The Supplier reserves the right to adjust the prices accordingly if cost reductions or cost increases arise after the conclusion of the contract, in particular, on account of collective bargaining agreements or changes in the cost of materials. The Supplier shall provide the Purchaser with proof of such changes upon request.

5.4. The deduction of discounts shall require a specific written agreement. Agreed discounts shall not be given if the Purchaser is in delay of payment of previous deliveries.

5.5. If the Purchaser is obliged to make a down payment, the Supplier shall only be obliged to commence the performance of the contract once this has been received.

5.6. Statutory regulations shall apply to payment delays unless otherwise specified hereinafter.

5.7. Failure to comply with payment conditions shall release the Supplier from its obligation to deliver, but shall not release the Purchaser from its obligation to accept delivery.

5.8. If the Purchaser fails to pay on a due date, it shall be in delay without any notice. The Supplier may charge interest at 8 percentage points above EURIBOR (12 months' rate, as applicable at the first day of delay) p.a. out of the amount due for the period payment is outstanding. Evidence for the application of higher damages for delay is reserved.

5.9. If the Purchaser is in delay of a partial payment for longer than one month, the remaining open balance shall become immediately due and payable.

5.10. If the Purchaser is in delay of a payment, the Supplier shall be entitled, following prior notice with no result, to reclaim the goods or to enter the Purchaser's premises and remove the goods as payment security.

5.11. The Purchaser shall not withhold or reduce payments on account of objections, claims or counterclaims not acknowledged by the Supplier. Payments shall also be made in the event that delivery is delayed or becomes impossible due to circumstances beyond the Supplier's control.

5.12. All of the Supplier's claims against the Purchaser, arising out of or in connection with any legal relationship whatsoever, shall be immediately due and payable if circumstances arise which entitle the Supplier to terminate, cancel or declare the contract avoided pursuant to a statutory or contractual provision.

6. Retention of title

6.1. Irrespective of the agreed INCOTERMS, all goods shall remain the property of the Supplier as legal and equitable owner and no property interest in, or title to, the goods shall pass to the Purchaser until all payments under the contract have been fully received by the Supplier. If the validity of the retention of title is dependent on an

entry to an official register or such like, the Supplier shall be entitled to enter its retention of title in the relevant register and the related costs and fees incurred shall be borne by the Purchaser.

6.2. The Purchaser shall handle, operate, protect and preserve the goods subject to retention of title with a level of care that is consistent with industry practices and not less than the level of care the Purchaser provides to similar titled assets. If maintenance or inspection work is required, the Purchaser shall perform these works in a timely manner at its own expense. The Supplier may insure the goods subject to retention of title at the Purchaser's expense against theft, breakage, fire, water and other casualty unless it can be verified that the Purchaser has itself procured such insurance. The Purchaser shall store the goods subject to retention of title separately and clearly mark them as property of the Supplier.

6.3. References to the value of the goods subject to retention of title are derived from the net amount invoiced by the Supplier (net invoice value).

7. Delivery

7.1. Unless otherwise agreed, the Supplier shall deliver the goods FCA dispatch warehouse as defined by the order confirmation in accordance with INCOTERMS 2010 of the International Chamber of Commerce ("INCOTERMS"). The Purchaser shall instruct the carrier to issue to the Supplier, at the Purchaser's cost and risk, a transport document stating that the goods have been loaded.

7.2. The delivery dates specified by the Supplier shall be binding only where expressly designated as "binding delivery date" by the Supplier.

7.3. The Supplier's compliance with binding delivery dates is conditional on all commercial and technical issues having been clarified between the contractual parties, and the Purchaser having in good time fulfilled all the obligations incumbent on it, such as the procurement of public authority certificates or approvals or payments. Should this not be the case because of the fault of the Purchaser, the delivery time shall be extended reasonably.

7.4. The Supplier may execute partial deliveries at all times and may invoice each such partial delivery separately.

7.5. The Supplier shall not be liable, even in the event of agreed periods and deadlines, for delays to deliveries caused by force majeure and due to events that make it significantly more difficult or impossible for the Supplier to make the delivery (these include war (declared or otherwise), war-like situations, civil unrest, revolutions, rebellions, military or civilian coups, revolt, tumult, riots, blockades, embargoes, governmental orders, sabotage, strikes, go-slow actions, lockouts, epidemics, fire, flooding, storm surges, typhoons, hurricanes or other severe weather conditions equal to the level of a disaster, earthquakes, landslides, lightning strikes, general shortages in materials, piracy, shipwrecks, lack of port and unloading capacities, serious transport accidents, rejections and new production of significant plant parts for reasons outside of the Supplier's control insofar as the latter situation results in a prolongation of the delivery periods). These delays shall entitle the Supplier to postpone the delivery for the period of the impediment plus a reasonable additional lead time, or to partially or wholly rescind the contract in relation to the non-performed part of the contract. This applies equally if the Supplier is already in default. The Purchaser shall be promptly informed of any non-availability of services. The Purchaser is entitled to rescind the as-yet unfulfilled part of the contract, if the force majeure event endures for longer than six months.

7.6. If the Supplier is in default of fulfilling a bindingly agreed delivery deadline for reasons for which it alone is responsible, following the expiry of a grace period of two weeks the Purchaser shall be entitled to demand liquidated damages at the rate of 0.25% for each additional complete calendar week, but no more than 5% in total of the net invoice value for that part of the delivery which cannot be used in time or as contractually agreed. Any further claims or liability in connection with timely performance shall be excluded. The parties

agree that such sum represents a reasonable estimation of damages anticipated by the parties arising from such failure by the Supplier. The obligation to pay liquidated damages is conditional on the Purchaser's adducing proof that damage has actually occurred. If the maximum amount of liquidated damages has accrued, the Purchaser may determine a reasonable extension of time for the delivery. If the Supplier fails to deliver the goods within the extension of time for reasons the Supplier is solely responsible for, the Purchaser may declare the contract avoided and demand the repayment of all payments upon return of the goods already delivered.

7.7. If the Purchaser fails to fulfil its obligations in a timely manner, whether to accept delivery or to perform preparatory works, the agreed or still outstanding payment shall be due and payable upon the expiry of a reasonable extension of time, but in any case no later than upon the agreed delivery date. The legal effects of the creditor's default shall not be affected thereby. At the Supplier's discretion, temporary storage of the contractual item shall be provided at the Purchaser's expense and risk.

7.8. The export of goods (especially US products and/or technology) and/or the performance of services in the country of destination may be subject to export restrictions imposed by the European Union and/or other countries or other institutions. The Supplier shall continuously monitor the actual legal situation concerning exports. In the event that the goods in whole or in part are or become subject to export restrictions, the Supplier explicitly reserves the right to adapt the scope of supply to the export restrictions currently applicable at the particular time. Delays resulting as a consequence of an application for necessary export permission and/or its rejection for any goods included in the scope of supply shall be treated as a force majeure event (Sec. 7.5), and Supplier shall be no longer obliged to deliver such goods or parts thereof subject to rejected export permission. In this regard, the Purchaser may declare the contract avoided for those goods for which an export permit has been rejected.

8. Cost of material

8.1. All materials required for the assembly, commissioning test runs and trials to test functionality, to assess performance, to adjust tools, including but not limited to raw materials, additives, energy, water and other auxiliary materials as well as qualified personnel to assist the Supplier shall be timely provided in sufficient quality and quantities by, and at the expense of, the Purchaser. For each of the test runs, only raw materials specified by the Supplier shall be used. The same applies to any tests of repairs and remediation.

8.2. If the Supplier uses its own material, the Purchaser shall reimburse it for the costs and expenditures costs incurred.

9. Transfer of risk, acceptance

9.1. The risk of loss of or damage to the goods shall pass to the Purchaser in accordance with the agreed INCOTERMS clause.

9.2. If the shipment is delayed or not completed due to reasons beyond the Supplier's control, risk shall pass to Purchaser as of the day of Supplier's notifications that the goods are ready for shipment.

9.3. The Purchaser undertakes to take part in any test runs at the request of the Supplier and to facilitate them at all times.

9.4. Any agreed formal acceptance of the goods must take place promptly on the date agreed for acceptance, or alternatively following the Supplier's readiness for acceptance notification. The Purchaser may not refuse acceptance on the basis of the existence of deficiencies which do not significantly impair the functionality or production capability of the goods for their ordinary use assumed by the Supplier.

9.5. If, for reasons for which the Purchaser is responsible, any test runs cannot be performed within four weeks of the Supplier's readiness for acceptance notification, or if the Purchaser starts production prior to the completion of the test runs, the goods shall then be deemed accepted.

9.6. If any test run fails, the Supplier shall have three further attempts at conducting the test runs.

10. Transportation and insurance

10.1. Export and import customs duties as well as packaging, costs of transportation and insurance shall be borne according to the agreed INCOTERMS clause.

10.2. The Purchaser shall insure the goods against damages of any kind. If insurance is to be procured by the Supplier, it shall be deemed concluded on behalf of and for the account and risk of the Purchaser.

10.3. Upon transfer of risk, the Purchaser shall inspect the goods without undue delay for shipping damage and loss. Should such damage or loss be discovered, the Purchaser shall attach a corresponding reservation note to the shipment documents and immediately address the situation with the carrier. Notification of less readily detectable shipping damages must be given to the carrier no later than within 5 calendar days following the transfer of risk.

10.4. Stacking and storage supports included with a delivery shall be invoiced and thereafter credited once returned free of defects (except in case of rentals).

11. Use of software

11.1 To the extent the goods include or incorporate any software, the Supplier grants Purchaser a limited, non-exclusive perpetual license to use the delivered software. The license grants Purchaser the following rights:

- to use the software only in the operation of the goods on which it is installed at the time of delivery and only for its intended purpose;
- to transfer the software and all rights under this license to a third party as part of sale or conveyance of the goods with which it is used, but only if the third party agrees in writing to be bound by the terms of this Sec. 11;
- to make a single copy of the software for backup purposes.

The terms of use and license for any third party software that is included or incorporated as part of the goods shall additionally apply. In the event of a contradiction between the terms of use for Supplier software and those for third-party software, the more stringent provisions shall apply.

11.2 The Purchaser may only use the software on the goods. Purchaser shall not distribute copies of the software to others or transfer the software from the goods to another device. Purchaser shall not recompile, reverse engineer, disassemble, or otherwise reduce the software to a human-perceivable form. Purchaser shall not copy (unless made for security purposes), edit or otherwise modify the software or any part thereof.

11.3 All software and other intellectual property provided by the Supplier shall remain the exclusive property of its respective licensor.

11.4 "Software" means a computer programme or compilation of data including, but not limited to computer programmes or data that is fixed in any tangible medium of expression, or any storage medium from which the program may be perceived, reproduced or otherwise communicated, either directly or with the aid of a machine or device, and shall include without limitation any of the Supplier's proprietary operating software, provided for the ordinary operation of the goods, any optional Software utilized to enhance the operation of the goods, as well as any upgrades or revisions of the Software the Supplier provides in fulfilment of a specific written commitment, independently or otherwise.

12. Conformity of the goods

12.1. Subject to the customary scope of tolerances, the Supplier assumes liability for the conformity of the goods at the time of the

transfer of risk with the specifications made by the Supplier in the order confirmation with regard to quantity, quality, description and packaging as well as for a breach of any expressly agreed guarantees of durability; and in the absence of agreed written specifications, the Supplier shall only be liable for the suitability of the goods for the ordinary use as assumed by the Supplier. Any further liability is excluded. In particular, the Supplier assumes no liability for the suitability of the goods for application and use other than for the ordinary use assumed by the Supplier, even where the Purchaser has informed the Supplier of such intended use. The Purchaser, and not the Supplier, shall be responsible for ensuring that the requested specifications and qualities are sufficient for the Purchaser's intended use.

12.2. The Supplier's liability shall exclude defects resulting from normal wear and tear, inadequate storage and maintenance, failure to comply with operating standards, excessive load, use of unsuitable raw materials, improper operating supplies, inappropriate procedures by the Purchaser or a third party, the use of non-original parts, as well as from other causes which are not attributable to the Supplier.

12.3. The Purchaser shall inspect the goods upon delivery without undue delay. Written notice of an identified lack of conformity shall be submitted to the Supplier within 5 calendar days. The duty to notify shall also apply if the lack of conformity could not be identified upon the ordinary inspection but is subsequently identified. A late notice of lack of conformity in the goods shall exclude the Supplier's liability. Timely dispatch of the notice shall constitute compliance with the deadline.

12.4. If the Purchaser discovers a lack of conformity in the goods, it may not modify, resell, process or convert them until an agreement as to the settlement of the complaint is reached.

12.5. The Purchaser shall be obliged to make available to the Supplier the rejected goods or a sample thereof for the purpose of assessing the rejection. In the case of a refusal, the Supplier shall be exempted from its liability for a lack of conformity in the goods.

12.6. In the case of a lack of conformity, the Purchaser may initially require the Supplier to remedy by repair. The Supplier shall be entitled, at its discretion, to provide a substitute delivery instead and to reclaim the non-conforming goods. If the subsequent delivery does not conform to the contract or if the Supplier fails to remedy by repair, the Purchaser shall likewise have only the right to require the Supplier to remedy by repair and the Supplier may likewise make a substitute delivery instead.

If this latter attempt to remedy by repair or to substitute delivery is also unsuccessful and the Purchaser gives timely notice thereof, the Purchaser shall then only be entitled to a reduction of the agreed contract price to the extent of the reduction in value. If, however, the reduction in value equals or exceeds the agreed contract price, the Purchaser shall only be entitled to declare the contract avoided.

In all other cases the Purchaser shall not be entitled to declare the contract avoided on account of a lack of conformity of the goods. Any rights to claim damages in case of a lack of conformity shall be excluded.

12.7. If remediation or substitute delivery is made as a result of a given of conformity, the conditions with respect to delivery times shall apply accordingly. Substitute deliveries shall be made in accordance with CIP-INCOTERMS at the place of the parts that do not comply with the contract. Exchanged parts or, in case of substitute delivery, the non-compliant parts shall be returned to the Supplier at its expense.

12.8. All of the Purchaser's claims arising from a lack of conformity of the goods are subject to a limitation period of 12 months from delivery. The foregoing shall not apply in cases where a longer limitation period is prescribed by law, in particular, in the case of wilful deceit.

13. Limitation of liability

13.1. The Purchaser shall have no right to claim damages or reimbursement of expenses under any legal basis whatsoever, in particu-

lar, on the grounds of a breach of obligation under a creditor-debtor relationship or tort, whether by the Supplier, its legal representatives or agents. Unless expressly specified, the Purchaser shall likewise have no right to damages, reductions, or declare the contract avoided. In no event shall the Supplier be liable for indirect or consequential damages, such as but not limited to production losses, loss of use, loss of orders and lost profits. The foregoing shall not apply to the extent applicable law (Sec 16.1) mandates liability.

13.2. If, notwithstanding the liability limitation pursuant to Sec. 13.1, the Supplier is liable for the Purchaser's damages, its total liability - including liability for reductions pursuant to Sec. 12.6 - under contract, tort or any other theory of law shall be limited to 5% of the invoiced amount, to the extent permitted by applicable law (Sec. 16).

13.3. The foregoing exclusions and limitations of liability shall also apply to the liability of the Supplier and its legal representatives, as well as any personal liability of the latter. The Supplier shall not be liable for its employees or vicarious agents.

14. Release and indemnification of the Supplier

The Purchaser shall indemnify for and hold Supplier harmless from, any claims by third parties arising out of or in connection with damage or other legal infringements by the Purchaser, its legal representatives, employees and vicarious agents. The Purchaser shall be obliged to insure itself against such damages.

15. Severability clause

If any provision of the General Terms and Conditions of Sale and Delivery is held to be illegal, invalid or unenforceable, in whole or in part, such illegality, invalidity or unenforceability shall not affect the remainder of the General Terms and Conditions of Sale and Delivery, and the Parties shall in good faith attempt to substitute a legal, valid and enforceable provision which achieves to the nearest extent possible the same economic effect as would have been achieved by the illegal, invalid or unenforceable provision. The same shall apply mutatis mutandis in case of any gap in the General Terms and Conditions of Sale and Delivery.

16. Applicable law and arbitration

16.1. These General Terms and Conditions of Sale and Delivery and all legal relations between the Supplier and the Purchaser shall be governed by the laws of Switzerland excluding conflict of law rules.

16.2 Any dispute, controversy or claim arising out of or in relation to these General Terms and Conditions of Sale and Delivery and the contracts concluded, including the validity, invalidity, breach, or termination thereof, shall be finally resolved by arbitration in accordance with the Swiss Rules of International Arbitration of the Swiss Chambers' Arbitration Institution in force on the date when the Notice of Arbitration is submitted in accordance with these Rules. The number of arbitrators shall be one. The seat of the arbitration shall be Zurich, Switzerland. The arbitral proceedings shall be conducted in the English language.

17. Services

If the Supplier shall also perform the assembly or support for assembly, commissioning and test runs, or repairs, servicing and maintenance works, machine or line modifications, the General Terms and Conditions of Service in their most current version shall additionally apply. To the extent that the General Terms and Conditions of Service are in conflict with the General Terms and Conditions of Sale and Delivery, the former shall prevail.