

**1 SCHWEIZER ELECTRONIC**

1.1 In these Terms & Conditions, "Schweizer Electronic" means any company in the Schweizer Electronic Group of Companies (see addresses at the end of these Terms & Conditions), with which the customer has concluded the contract or from which the customer has obtained or ordered the products/services.

**2 SCOPE OF APPLICATION OF THE TERMS & CONDITIONS**

2.1 These General Terms & Conditions of Sale, Delivery and Maintenance ("Terms & Conditions") apply exclusively to all products and services provided by Schweizer Electronic to the customer. They are an element of the contract and any supplements thereto.

2.2 Conditions laid down by the customer that are contradictory or supplementary or which derogate from these Terms & Conditions shall only be an element of the contract if and to the extent that Schweizer Electronic recognizes such conditions expressly in writing.

The foregoing also applies to terms and conditions of business mentioned in the customer's orders or confirmations.

The provision of products/services does not imply the acceptance of the customer's conditions. These Terms & Conditions apply even if the contract with the customer is carried out without reservation in knowledge of conditions contradictory, supplementary or in derogation from these Terms & Conditions.

2.3 These Terms & Conditions also apply to all future transactions with the customer, provided they are legal transactions of a similar nature.

**3 OFFER, ORDER AND CONCLUSION OF CONTRACT**

3.1 Only written offers from Schweizer Electronic with a deadline for acceptance are binding. All other offers and recommended price offers are always non-binding.

3.2 Orders must be made by the customer in writing by post (in cases of urgency firstly by fax or by e-mail).

3.3 The contract is concluded either by Schweizer Electronic accepting the order made by the customer, whether by a confirmation of order sent in writing or by fax or by conduct implying acceptance (e.g. the immediate delivery of the ordered product); or if the customer accepts a binding offer from Schweizer Electronic without amendment within the deadline for acceptance.

3.4 The customer must check the confirmation of order from Schweizer Electronic immediately on receipt. If it sees any variation from its order that it is not prepared to accept, it must notify Schweizer Electronic of this immediately in writing, but at the latest within 5 working days of receipt, otherwise it will be deemed to have accepted the variation.

**4 ADVERTISING BROCHURES, PLANS AND TECHNICAL DOCUMENTS**

4.1 The official system manuals and operating instructions are binding.

4.2 Brochures and catalogues are non-binding.

4.3 Technical documents such as drawings, calculations, descriptions and diagrams are binding only if the corresponding documents from Schweizer Electronic are dated and validly signed.

4.4 Each contractual party retains all rights to plans, cost estimates, technical documents, technical information and software programs that it provided to the other contractual party before or after the contract was concluded. The recipient party shall recognize these rights and shall not make the documents and information accessible to third parties or use them for purposes other than that for which they were provided without the prior written consent of the other contractual party.

**5 CONFIDENTIALITY**

5.1 The customer undertakes to treat the offer and any accompanying materials from Schweizer Electronic as confidential for 10 years and not to allow third parties access to the same. The customer is obliged to impose this duty of confidentiality on its employees and auxiliaries as well.

**6 EXTENT OF THE PRODUCTS AND SERVICES**

6.1 The products and services provided by Schweizer Electronic are specified in full in the confirmation of order or in the binding offer from Schweizer Electronic, including any Annexes hereto. Any ancillary services require the written and express confirmation of Schweizer Electronic.

6.2 Schweizer Electronic has the right to make modifications that lead to improvements, provided this does not result in an increase in the price.

**7 DELIVERY PERIOD**

7.1 The delivery times/deadlines specified in the confirmation of order or the offer are only binding if an express, written assurance is given to that effect, and are otherwise only guidelines.

7.2 The agreed delivery period begins on the date of the written confirmation of order or on receipt of the order in accordance with an unamended offer. It has been complied with if delivery is made or the customer is notified of readiness for delivery before its expiry.

7.3 The delivery period shall not begin to run or shall be extended appropriately:  
a) if Schweizer Electronic does not receive in time the required technical and commercial documents and details that Schweizer Electronic requires for the performance of the contract; or if these are retrospectively supplemented or modified by the customer with the consent of Schweizer Electronic;

b) if obstacles arise that Schweizer Electronic cannot avoid despite exercising the required care, irrespective of whether the obstacles arise at Schweizer Electronic, at the customer or at a third party. Such obstacles include for example delays on the part of country-specific regulatory authorities or testing institutes, official measures or omissions, epidemics, natural phenomena, civil unrest, mobilization, war, terrorist activities, industrial disputes, lock-outs, strikes, accidents and other considerable disruptions of operations, and failure to deliver or delivery of the wrong raw materials, semi-finished or finished products that are required.

c) if the customer or any third party it has engaged is behind schedule with the work that it must carry out or is in default in fulfilling its contractual obligations or its obligations to accept or conduct an acceptance test, or if the ordering party fails to comply with the payment terms.

7.4 If a specific deadline is agreed instead of a delivery period, the deadline is deemed equivalent to the last day of a delivery period; Sections 7.1 to 7.3 apply mutatis mutandis.

7.5 Partial products and partial services are permitted provided they are acceptable to the customer.

**8 DAMAGES FOR LATE DELIVERY/SERVICE PROVISION**

8.1 The customer has the right to claim damages for late delivery provided the delay can be proven to be the fault of Schweizer Electronic and the customer can prove that it incurred a loss as a consequence of the delay. The damages amount to a maximum of 0.5 % for every full week of the delay, but may not exceed a total of 5 %, calculated on the basis of contractual price of the delayed part of the delivery. The first two weeks of the delay give no right to damages. If a re-

placement delivery is made on schedule in order to accommodate the customer, the right to damages lapses.

8.2 On reaching the maximum amount of damages, the customer may by written notice grant Schweizer Electronic an appropriate additional period for delivery. If this additional period is not complied with for reasons for which Schweizer Electronic is responsible, the customer has the right to refuse to accept the delayed part of the delivery. If it is unreasonable in financial terms for it to accept partial delivery, it has the right to withdraw from the contract and to demand the refund of payments already made against the return of products already delivered.

8.3 The customer has no rights or claims due to delay in delivery or provision of services other than those expressly aforementioned in Section 7 hereof. Additional claims for damages are permitted only in cases of gross negligence or wilful conduct and only insofar as the aforementioned damages for late delivery are insufficient to cover the loss incurred.

**9 PACKAGING**

9.1 Unless otherwise agreed, the packaging provided by Schweizer Electronic will not be taken back and must be stored or disposed of by the customer at its own expense.

9.2 In the event that repair or warranty work is required, the equipment must be returned in its original packaging to Schweizer Electronic.

**10 TRANSFER OF BENEFIT AND RISK**

10.1 Benefit and risk are transferred to the customer at the latest when the product leaves the delivery plant (this also applies in the case of postage paid-delivery).

10.2 If consignment is delayed at the customer's request or for other reasons for which Schweizer Electronic is not responsible, risk is transferred to the customer at the time originally specified for delivery ex works. From this time, the product will be stored and insured for the account and at the risk of the customer.

**11 CONSIGNMENT, TRANSPORT AND INSURANCE**

11.1 The customer must make any special wishes relating to consignment, transport or insurance known to Schweizer Electronic in good time. Consignment and transport are carried out for the account and at the risk of the customer.

11.2 Complaints in connection with consignment or transport must be made by the customer to the final carrier immediately on receipt of the delivery or the consignment documents.

**12 ACCEPTANCE TEST**

12.1 If an acceptance test is contractually agreed or required by a regulatory authority, the customer must inspect and approve the delivery in the presence of Schweizer Electronic and if required also in the presence of the regulatory authority. The parties shall prepare a written report on the acceptance test (in two official copies), which must be signed by both parties.

**13 WARRANTY (LIABILITY FOR DEFECTS)**

13.1 The warranty period amounts to 24 months for new products and 6 months for spare parts and repaired parts. The warranty period begins with the transfer of benefit and risk, or on completion of the repair or the acceptance of the equipment.

13.2 For defects relating to the product delivered or service provided that also involve the failure to provide features expressly guaranteed, Schweizer Electronic is liable to the exclusion of any further claims as follows:

13.2.1 Schweizer Electronic undertakes as quickly as possible at its own discretion either to repair or replace those parts of the delivered product that, due to circumstances proven to have occurred before the transfer of risk, become damaged or unusable before expiry of the warranty period, in particular due to defective materials, construction or finishing.

13.2.2 Guaranteed features are solely those that have been expressly agreed in writing as such between the customer and Schweizer Electronic. The guarantee applies at the most until the expiry of the warranty period. If an acceptance test has been agreed, the guarantee is regarded as fulfilled if proof of the relevant features is provided at this test.

13.2.3 Warranty rights require the customer to comply with its duty to inspect and report defects in the proper manner. Obvious defects must be reported in writing to Schweizer Electronic at the latest within fourteen (14) days of completed delivery or provision of the service, hidden defects immediately on their detection, and if this is not the case, the delivered product or service provided is deemed to be approved.

13.2.4 The defective parts must be sent to Schweizer Electronic if so requested. The cost of damage in transit is borne by the customer. The original packaging must be used for the returning the product. If faulty parts are replaced, the replaced parts become the property of Schweizer Electronic. The cost of removing and fitting the parts is borne by the customer. The costs of consignment/transport of the same type as in the case of the defective service are borne by Schweizer Electronic. Following the successful repair or replacement, the customer becomes subject to the same duty to inspect and report defects as in the case of the original delivery.

13.2.5 The warranty expires prematurely if the customer or third parties without prior written consent from Schweizer Electronic attempt to modify, repair or open the product or if the customer, where a defect has come to light, fails to take all appropriate measures immediately in order to mitigate the damage or loss and Schweizer Electronic offers the possibility of remedying the defect.

13.2.6 Matters excluded from the warranty

Excluded from the warranty are losses or damage that cannot be proven to be a result of defective materials, construction or finishing, e.g. which are a result of everyday wear and tear (bulbs, rail contacts, switch buttons, batteries etc.); improper use, project planning, installation, initial operation, operation or maintenance in accordance with the operating instructions and system manuals, improper treatment, overloading or overuse, misuse, unsuitable operating equipment, the influence of chemical or electrolytic factors, installation or assembly work not carried out by Schweizer Electronic, use of the product in conjunction with any products, accessories, software and/or services where the products and services provided by Schweizer Electronic do not themselves malfunction, and other reasons for which Schweizer Electronic is not responsible. Also excluded are defects due to the failure to comply with instructions given by Schweizer Electronic following receipt of a complaint.

13.3 Exclusivity of warranty claims. The customer has no rights and claims in relation to defects in materials, construction or finishing, or due to the absence of guaranteed features other than those expressly mentioned in Section 13.1 to 13.2 above.

**14 EXCLUSION OF FURTHER LIABILITY ON THE PART OF SCHWEIZER ELECTRONIC**

14.1 All cases of breach of contract and their legal consequences together with any claims made by the customer, irrespective of the legal grounds, are regulated in full in these Terms & Conditions. In particular any claims for damages, reduction of the price, termination of or withdrawal from the contract that are not expressly aforementioned are excluded. Under no circumstances

- has the customer any right to compensation for loss or damage that has not been occasioned to the delivered product itself, such as in particular production stoppages, losses of effectivity, loss of orders, dismantling or assembly costs, loss of earnings as well as any other indirect or immediate loss or damage. This limitation of liability also applies in the event of a violation of subsidiary obligations.
- 14.2 This exclusion of liability does not apply to wilful conduct or gross negligence on the part of Schweizer Electronic. However it also applies to wilful conduct or gross negligence on the part of auxiliary personnel. Furthermore, this exclusion of liability does not apply where it is contrary to mandatory law.

## 15 SAFE USE OF THE PRODUCTS

- 15.1 The customer is responsible for the safe use of the systems and products. The customer is obliged to pass on, in a suitable form, all the safety information required to the users of the systems and products.
- 15.2 The basic requirement for the safe and trouble-free operation of the products and systems is knowledge of the relevant system manual, the operating instructions for the individual items of equipment (as provided or published by Schweizer Electronic), compliance with the safety regulations contained therein and with any country-specific regulations.
- 15.3 Available test certificates (e.g. from the Technical Inspection Association (TÜV)) apply exclusively to the security systems and products delivered by Schweizer Electronic. Third-party products may therefore only be used in combination with the security systems and/or products delivered only after a security and availability check by Schweizer Electronic, irrespective of whether the combination is achieved electronically, mechanically or by means of a data transmission of whatever nature.
- 15.4 The customer acknowledges and accepts that for security reasons the following, special provisions apply:
- only qualified staff who have successfully completed the relevant training courses as certified by Schweizer Electronic and who are in possession of a valid certificate may operate, assemble, plan and/or service Schweizer Electronic products; and
  - system protection: products that are not maintained in accordance with the regulations (e.g. the inspection certificate has expired or required inspections have not been carried out) may no longer be used. In order to ensure this, individual Schweizer Electronic products are equipped with system protection, which means that these products can no longer be used in the event of failure to carry out maintenance.

## 16 MAINTENANCE BY SCHWEIZER ELECTRONIC

- 16.1 Schweizer Electronic shall for a fee and in exclusive application of these Terms & Conditions (e.g. warranty in accordance with Sec. 13, exclusion of additional liability in Sec. 14, etc.) carry out the following maintenance work on the equipment that it delivers: servicing, inspection and repairs.
- 16.2 Unless expressly agreed to the contrary, the customer must pay for all services in accordance with the rates applicable at the time (hourly rates, flat-rate payments, prices) as per the Schweizer Electronic price list.
- 16.3 Schweizer Electronic recommends that the customer, even in the case of equipment and systems for which this is not already required for security reasons, arranges regular preventive servicing and inspections in accordance with the operating instructions and system manuals.

## 17 PRICES

- 17.1 Unless otherwise agreed, prices are in Swiss francs, net, ex works Schweizer Electronic in Reiden, Switzerland, in accordance with INCOTERMS 2010, exclusive of Value Added Tax and without packaging and any deductions. All incidental costs such as freight, insurance, export, transit, import and other authorisations, taxes, charges, fees and duties must be paid by the customer.
- 17.2 Assembly, installation, initial operation, training and application support are not included in the price, unless these are expressly made the subject matter of the transaction.
- 17.3 Schweizer Electronic is entitled to adjust prices if the customer with the consent of Schweizer Electronic after the contract has been concluded makes changes in relation to quantity, materials or finish, or if the materials or the finish undergo changes because the documents given by the customer to Schweizer Electronic did not correspond to the actual conditions or were incomplete.

## 18 PAYMENT TERMS

- 18.1 The payment terms are essentially as stated in the confirmation of order from Schweizer Electronic.
- 18.2 In the absence of any terms, invoices must be paid net within 30 days of billing (invoice date), without discounts or any other deductions, by money transfer to the bank account stated on the invoice.
- 18.3 Payment is deemed to be made when the amount due is credited to the bank account of Schweizer Electronic and Schweizer Electronic is free to dispose thereof.
- 18.4 The payment deadlines must also be complied with if the transport, delivery, assembly, initial operation or acceptance of the products or services is delayed or made impossible for reasons outside Schweizer Electronic's control, or if non-essential parts are missing or remedial work that does not prevent the use of the products proves to be necessary.

## 19 DEFAULT IN PAYMENT

- 19.1 If the customer fails to comply with the agreed payment deadlines, it shall be held without warning to be in default from the agreed due date, and shall be charged all consequential costs as well as default interest of 1 % per month. The right is reserved to pursue additional damages for default.
- 19.2 In the event of default in payment, Schweizer Electronic has the right to request advance payments for further orders from the same customer or the opening of an irrevocable and confirmed documentary credit and to withhold deliveries not yet made.

## 20 RESERVATION OF OWNERSHIP

- 20.1 Schweizer Electronic remains owner of the item delivered until it has received payment in full as agreed in the relevant contract (so-called reserved goods). Schweizer Electronic is entitled to take back reserved goods subject to compliance the statutory provisions if the customer fails to

comply with the terms of the contract, for example by defaulting in payment. The customer grants Schweizer Electronic the right to inform its lessor of the reservation of ownership over the property located in rented premises.

- 20.2 The customer has the right to resell the reserved goods as part of its normal business operations. In the event of resale, the customer hereby already assigns to Schweizer Electronic in lieu of payment its future claims in terms of the resale against its customer with all ancillary rights as security for the final amount on the invoice (including Value Added Tax and incidental costs), without the requirement for any subsequent declaration to this effect. This assignment applies irrespective of whether the reserved goods have been resold without or following processing. Until further notice, the customer has the right to collect the debts arising from the resale that have been assigned. Schweizer Electronic retains the right to collect the debt itself, but will not do this provided the customer complies with its payment obligations under the contract and there is no indication of any kind that the customer is no longer able to honour its payment obligations in general (e.g. requests for or raising of debt rescheduling proceedings, commencement of composition proceedings or liquidation). At the request of Schweizer Electronic, the customer must provide Schweizer Electronic immediately with the information required to pursue its rights and hand over the required documents.
- 20.3 The customer is obliged to cooperate in any measures required to protect the property rights of Schweizer Electronic; in particular, by concluding the contract it grants Schweizer Electronic the right, unilaterally and at the expense of the customer, to enter or have noted a reservation of ownership in public registers, books or similar in accordance with the national legislation applicable to the reservation of ownership and to fulfil all related formalities.
- 20.4 For as long as ownership has not yet passed to the customer, the customer is obliged to treat the product delivered with due care, arrange for the required maintenance work to be carried out at its expense, and to insure the product for the benefit of Schweizer Electronic at replacement value against theft, breakage, fire, water and other. The customer assigns its claims for indemnification against insurance companies or other liable persons to Schweizer Electronic to the extent of Schweizer Electronic's claims. The customer shall also take all measures to ensure that the Schweizer Electronic's property rights are neither adversely affected nor cancelled.

## 21 INTELLECTUAL PROPERTY RIGHTS TO SOFTWARE, TRAINING DOCUMENTS AND PRODUCT DOCUMENTS

- 21.1 Schweizer Electronic grants the customer a non-exclusive right unlimited in time to use software, training materials and product documentation supplied on or following delivery with the agreed performance characteristics unchanged on the agreed equipment.
- 21.2 Training materials may be used only for internal staff training by the customer.
- 21.3 For back-up purposes, the customer may make an appropriate number of copies, provided the back-up copies are marked accordingly and not used for other purposes.
- 21.4 Ownership and the right of further distribution remains that of Schweizer Electronic or its licensors, even if the customer subsequently modifies software programs, training materials or know-how records.

## 22 PROHIBITION OF SETTING-OFF

- 22.1 The customer and Schweizer Electronic mutually agree only to set off claims that are recognised in writing or upheld by a court and otherwise not to set-off claims.

## 23 PLACE OF PERFORMANCE

- 23.1 The place of performance for all obligations arising from the legal relations between the customer and Schweizer Electronic is exclusively the headquarters of Schweizer Electronic in CH-6260 Reiden.

## 24 WRITTEN FORM

- 24.1 Unless expressly agreed to the contrary, in the present case in derogation from Art. 13 of the Swiss Code of Obligations, transmission by fax is deemed to be a written communication.

## 25 FINAL PROVISIONS

- 25.1 The customer may transfer or assign this contract and its individual rights and obligations derived therefrom to third parties only if Schweizer Electronic consents thereto in advance in writing.
- 25.2 If any individual provisions of this contract are or become ineffective or contain omissions, the other provisions remain unaffected thereby. The ineffective provision should be replaced by a legally permitted provision that corresponds as closely as possible to the economic purpose of the ineffective provision or which remedies the omission.
- 25.3 Amendments to the contract require the signature of both parties in order to be valid.

## 26 GOVERNING LAW AND JURISDICTION

- 26.1 The legal relations between the customer and Schweizer Electronic are governed by the substantive law at the headquarters of Schweizer Electronic, under exclusion of the United Nations Convention on Contracts for the International Sale of Goods of 11.4.1980 ("CISG").
- 26.2 The place of jurisdiction for both contractual parties for any disputes arising in connection with or from the contract is at the headquarters of Schweizer Electronic. Schweizer Electronic is however entitled to bring proceedings against the customer at the customer's headquarters as well.

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