

TERMS AND CONDITIONS OF SALE

QUOTATIONS ARE MADE AND ORDERS ARE ACCEPTED ONLY UPON AND SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS TO THE EXCLUSION OF ALL OTHER TERMS AND CONDITIONS INCLUDING THOSE OF THE BUYER

1. DEFINITIONS

"Seller" Bollhoff Attexor SA, having a place of business at the address overleaf.
"Buyer" means the immediate purchaser of any goods from the Seller.
"Goods" means the goods specified in the Buyer's order or the Seller's quotation.

2. GENERAL

Any orders for Goods, whether or not based on a quotation, are subject to confirmation of acceptance in writing by the Seller and are deemed to be made subject to these terms and conditions of sale and no qualification or term or condition in any offer or purported acceptance by the Buyer shall form any term or condition. A binding contract shall not arise unless and until the Seller shall have given written confirmation of acceptance of the Buyer's order.

3. QUOTATIONS

No quotation, estimate or other proposal, in whatever form, given by the Seller constitutes an offer. Any quotation given shall be and shall be deemed to be withdrawn unless accepted by the Buyer within 30 days from the date on which it is given.

4. PRICES

(A) The price payable by the Buyer, exclusive of taxes, shall be:

- I. Subject to sub-paragraph (A) (III) and paragraph (B) of this Clause where the words "fixed price" appear in the contract the price payable by the Buyer shall be the price stated therein.
- II. In any other case, subject as aforesaid, the price shall be the price set out in the Seller's quotation.
- III. The Seller reserves the right to revise its price for Goods, to take into account any direct increase in the price of any material or Goods or the cost of labour or other overhead expenses, outwith the reasonable control of the Seller, or any variation in specification or, if appropriate, any change in the relevant rate of currency exchange between the date when the price was calculated and the date on which the Goods are despatched, or are available for collection, upon giving seven days notice in writing to the Buyer before despatch, or collection as the case may be.

(B) Without prejudice to the foregoing generality, all taxes, duties, public dues, levies and tariffs of any kind, and storage insurance freight and other charges and surcharges whatsoever payable in respect of the Goods shall be for the Buyer's account.

5. SAMPLES

The Seller shall not accept or incur any liability for the level of performance of the goods if the same level of performance or better appeared in samples approved by the Buyer.

6. TERMS OF PAYMENT

Unless otherwise specifically intimated in writing by the Seller, accounts are due and payable, in cash or by irrevocable letter of credit, within 30 days of despatch or from the date the Buyer is notified that the Goods are ready for collection. Time shall be of the essence in respect of the Buyer's payment obligations. The Seller reserves the right to charge interest from day to day on any payments due or part thereof remaining unpaid after such period of 30 days at the rate of 1.5% per month. When deliveries are spread over a period each consignment will be invoiced as despatched or upon the Buyer being notified that the Goods are ready for collection and each invoice will be treated as a separate account and be payable

accordingly. Where the Buyer makes default under the contract between the Buyer and Seller in terms hereof, or any other contract or order with the Seller in payment of any sum due to the Seller on the relevant due date, the Seller shall be entitled, at its option, either to withhold delivery in respect of some or all orders with the Buyer or to cancel any such orders and shall have a general lien on all Goods and property belonging to the Buyer in the Seller's possession.

7. CARRIAGE

Subject to Clause 15 hereof, carriage of the Goods shall be to such point of delivery as the Buyer shall designate and, unless the specific method by which the Goods are to be shipped is instructed by the Buyer not less than 14 days prior to the despatch of the Goods, shall be by such means of transport as the Seller may determine. In all cases the cost of carriage shall be charged to the Buyer.

8. TITLE

Notwithstanding that the Buyer obtains possession of the Goods the property in the Goods will remain in the Seller until such time as the Seller has received payment from the Buyer of the full price to be paid for the Goods, together with any interest charged by the Seller under these terms and conditions of sale, and all sums due and owing to the Seller by the Buyer at the relevant time are settled in full, and until that time the Buyer will not pledge, charge or otherwise encumber all or any part of the Goods or sell or otherwise dispose of the same and shall hold and store the same in a separated and identifiable state.

9. DISCHARGE OF CONTRACT

Without prejudice to any other provisions in these terms and conditions of sale, in the event that:

- I. A Receiver or Administrative Receiver is appointed over the whole or any part of the assets of the Buyer, or
- II. a resolution is passed or a petition is presented for the liquidation of the Buyer, or
- III. a petition is presented applying for an administration order to be made in relation to the Buyer, or
- IV. the Buyer becomes apparently insolvent or bankrupt or has a bankruptcy petition presented against him, or
- V. the order requires the Seller to manufacture, produce, assemble or deliver any Goods which, in its opinion, are or may be of an illegal nature or may infringe any third party intellectual or industrial property rights, the Seller may, in its absolute discretion and without penalty, elect either to discharge the contract between the Buyer and Seller in terms hereof or not to deliver the Goods or any of them except against payment in cash of the purchase price of the Goods in full.

10. DAMAGE, SHORTAGE OR LOSS

All Goods must be examined by the Buyer at the time of delivery. No claims for damage, shortage or loss in transit will be entertained unless notice in writing of such damage, shortage or loss in transit is given to the Seller and the Carrier within three days from delivery of the Goods. In the event of non-delivery no claims will be entertained and the Seller will accept no responsibility unless a separate notice in writing of such non-delivery reaches the Seller within seven days from delivery of the Seller's invoice.

11. BUYER'S PROPERTY

Buyer's property and all property supplied to the Seller by or on behalf of the Buyer during the course of the contract shall, while it is in the possession of the Seller or in transit to or from the Buyer, be at Buyer's risk.

12. SELLER'S PROPERTY

Any tools, dies, moulds, patterns, drawings, plates, or other similar articles used for the purpose of manufacturing, producing or assembling the Goods shall become and remain the property of the Seller, notwithstanding that the Buyer may have paid the whole or part of the cost thereof.

13. INTELLECTUAL PROPERTY

The Buyer acknowledges that the Seller retains all copyright and other intellectual property rights in respect of Goods supplied by the Seller and any

drawings, plans, designs, inventions, computer programs, blueprints, circuits, diagrams, semiconductor topographies, models or memoranda, "Items", produced by the Seller for the Buyer in respect of the supply of such Goods. The Buyer further acknowledges that the Seller shall remain beneficial owner of the Items.

14. RISK

The risk in Goods supplied by the Seller shall pass to the Buyer forthwith upon

15. DELIVERY/TIME

Time for performance shall not be of the essence. The Seller will not be responsible for any loss of profits or other consequential loss or damage whatsoever arising out of delay in delivery or of failure to deliver Goods howsoever occasioned. In any event, the liability of the Seller for omissions or other errors in relation to the Goods shall be limited to the total price payable by the Buyer in respect of the Goods, less the total amount which is recovered by the Buyer from any third party in respect of that loss or damage

16. FORCE MAJEURE

(A) If the manufacture, production, assembly, transport or delivery of all or any part of the Goods is hindered, prevented or delayed by force majeure, the Seller shall not be liable for any loss or damage, cost or expense caused thereby and shall have, at its sole discretion, the option to cancel the contract in whole or in part or to suspend or delay delivery without incurring any liability to the Buyer.

(B) By force majeure is meant Act of God, legislation, war, fire, flood, drought, failure of power supply, strike or other action taken by employees in contemplation or furtherance of a dispute, blockade, import or export embargo or any event or circumstance, outwith the reasonable control of the Seller, resulting in an inability to perform in whole or in part any obligation under the contract.

17. LIABILITY

(A) No warranty, representation or undertaking is given that the Goods are fit for purpose and the Buyer must satisfy itself that the Goods are suitable for their intended use or application. The Seller warrants and undertakes that it will use sound components and materials, where components and materials are supplied by the Seller, and methods of manufacturing and production, and warrants and undertakes that as regards assembly carried out by the Seller, the workmanship of the Seller will be free from defects. This warranty and undertaking does not extend to components and materials not manufactured by Seller in respect of which the Buyer shall only be entitled to the benefit of any such warranty or guarantee or undertaking as is given by the supplier or manufacturer to the Seller and as the Seller is entitled to pass on to the Buyer nor to materials specified by the Buyer for the purpose of the contract.

(B) The Seller shall be under and shall accept no liability, in contract or delict, in respect of any defects in the Goods arising from any drawings, materials, designs, plans and the like supplied by or through the Buyer or any variation or adaptation to the Goods which has been approved or instructed by the Buyer.

(C) The Seller shall be under and shall accept no liability, in contract or delict, in respect of any defects in the Goods if the total contract price of the Goods has not been paid by the due date for payment.

(D) Subject to the provisions of sub-clauses (B) and (C) of this Clause and of Clause 5, if within 7 days from the date of delivery of any Goods by the Buyer the Buyer claims that any Goods are defective, the Buyer shall give to the Seller or to the Seller's agent full opportunity for the Seller or the Seller's agent to inspect and test such Goods at the place to or at which the Goods were delivered.

(E) If the Seller agrees that the Goods were defective at the time of delivery pursuant to the provisions of sub-clause (A) of this Clause or the Seller does not wish to inspect the Goods pursuant to sub-clause (D) of this Clause the Seller will, at its option, either:

- I. invite the Buyer to return such Goods at the cost of the Seller and by such means of transport as the Seller may instruct, to the Seller's premises whereupon the Seller will replace the Goods, or
- II. credit the value of such Goods to the Buyer's account and such action shall

delivery, meaning delivery of the Goods to the designated point of delivery or collection of the Goods by the Buyer, or if within seven days from the Seller giving written notice to the Buyer that the Goods are ready for delivery, the Buyer fails to collect or take delivery of the Goods or fails to designate a point of delivery, the Seller shall be entitled at the expense and cost of the Buyer to store the Goods in such manner and at such location as the Seller deems appropriate and the risk of loss or of damage to the Goods shall pass to the Buyer forthwith.

fully exhaust all rights and remedies which the Buyer may have against the Seller.

(F) The Seller hereby also expressly excludes:

- I. any liability, in contract or delict or otherwise howsoever, for consequential loss or damage, whether for loss of profit or otherwise, costs, expenses or other claims for consequential compensation whatsoever caused by or arising out of the use of the Goods after delivery, and
- II. any liability, in contract or delict or otherwise howsoever, for loss or damage, costs or expenses arising from any defects resulting from negligent or improper use, storage or handling of the Goods or the treatment or use of the Goods, in a manner other than that for which they were to the Buyer's knowledge manufactured, produced, assembled or supplied.

(G) Notwithstanding the provisions of this Clause, if the Seller is liable in contract, delict or otherwise for breaches of its duties to the Buyer arising by reason of, or in connection with the contract, its liability shall be limited to the price less the total amount which is recovered by the Buyer from any third party in respect of such neglect or default.

(H) The Seller's liability under this Clause shall continue for a period of 360 days, or 2000 working hours, whichever limit is reached first, from the date of delivery of the Goods or, if earlier, from the date the Seller intimates to the Buyer that the Goods are available for delivery and shall terminate immediately thereafter.

18. CANCELLATION

The Buyer shall have no right under any circumstances to cancel the contract in whole or in part without the prior written consent of the Seller which consent shall be conditional upon payment of such compensation or liquidated damages as the Seller shall reasonably require in the circumstances.

19. NOTICES

Any notice, demand or other written communication required or permitted to be given to the parties hereunder including invoices shall be deemed to have been validly given if served personally or sent by first class pre-paid post to the registered office or principal place of business of the relevant party. Any such notice, demand or other communication shall be deemed conclusively to have been served three days after the time of posting where sent by post or at the time of delivery by hand.

20. SUB-CONTRACTS

The Seller may sub-contract the performance of the contract or any part thereof without the consent of the Buyer.

21. SEPARATE AND SEVERABLE

Each Clause, sub-clause and paragraph in these items and conditions shall be separate and severable and enforceable accordingly.

22. GOVERNING LAW

The performance of contracts hereunder and the interpretation of these terms and conditions of sale shall be governed by and construed in accordance with Swiss Law. Place of jurisdiction is Morges, Canton of Vaud, Switzerland

