

General Terms and Conditions of Supply

Valid from 1 January 2015

1. General, scope

- 1.1. These General Terms and Conditions of Supply ("General Terms and Conditions") apply for all business transactions with our customers (subsequently referred to as: "Customers") if the Supplier specifies that they are applicable in the offer or order confirmation. The Supplier shall always be the Feintool company that refers to these General Terms and Conditions in its offer or order confirmation, regardless of whether the goods are delivered from a site operated by another company.
- 1.2. The General Terms and Conditions shall apply, in particular, for contracts for the sale and/or delivery of movable goods (subsequently also referred to as: "goods"), irrespective of whether the supplier manufactures the goods itself or purchases them from vendors; further, they shall apply to the provision of services (e.g. assembly or supervision of assembly) by the Supplier. The valid version of the General Terms and Conditions shall also apply as a master agreement for future contracts on the sale and/or delivery of movable goods and the provision of services for the Customer, without any need for the Supplier to refer to them specifically; in this case, the Supplier shall inform the Customer without delay of any changes to the General Terms and Conditions.
- 1.3. These General Terms and Conditions shall apply exclusively. General Business Conditions issued by the Customer that differ from, contradict or supplement these General Terms and Conditions shall only become part of the contract if and insofar as the Supplier specifically accepts their validity. This requirement for consent shall apply in all cases even if, for example, the Supplier is aware of the customer's General Business Conditions and the delivery is performed unconditionally.
- 1.4. These General Terms and Conditions only apply if the Customer is a business person, a legal entity under public law or a separate fund established under public law.
- 1.5. The Customer's order for the goods and/or service shall constitute a binding contractual offer. Except where otherwise specified in the order, the Supplier is entitled to accept this contractual offer within 5 days/weeks of receipt. The contract is concluded when the Customer receives the Supplier's written confirmation that it accepts the order (order confirmation). The Supplier may also issue such acceptance to the Customer after delivery of the goods and/or performance of the service.
- 1.6. Declarations and notices of legal relevance to be submitted by the Customer to the Supplier after conclusion of the contract (e.g. the setting of deadlines, notice of defects, declaration of withdrawal and reductions) shall only be effective if they are in writing.

1.7. References to the applicability of legal provisions shall serve only for clarification purposes. Even without such clarification, the legal provisions shall therefore apply unless they are directly altered or explicitly excluded in these General Terms and Conditions.

1.8. If one or more provisions of these General Terms and Conditions should prove ineffective, either in full or in part, this shall not affect the remaining provisions of these General Terms and Conditions. The ineffective provision shall be replaced by the law.

2. Scope of performance

- 2.1. Our offers are non-binding and are made without obligation. Delivery and services to be performed by the Supplier shall be set out in the order confirmation, including any supplements thereto.
- 2.2. Individual agreements made with the Customer on a case-by-case basis (including supplementary agreements, additions and amendments) shall always take precedence over these General Terms and Conditions. A written contract or written confirmation from the Supplier shall be authoritative with regard to the content of such agreements.
- 2.3. Any additional services must be agreed in writing and require explicit confirmation by the Supplier.

3. Technical documents, product descriptions, etc.

- 3.1. Catalogues, technical documentation (e.g. drawings, plans, calculations, estimates, references to technical standards, production documents), other product descriptions or documents and other technical information provided to the customers – including those in electronic form (collectively: "documents") are not binding and do not constitute any obligation. The Supplier holds all ownership rights and copyright for such documents for all conceivable forms of use. They shall only be binding if an explicitly undertaking to this effect is contained in the order confirmation.
- 3.2. If one party provides the other with documents within the meaning of 3.1. on the goods to be supplied or their manufacture either before or after conclusion of the contract, these shall remain the property of the party that provides them. This shall apply analogously for any rights pertaining thereto in all conceivable forms of use.
- 3.3. If one party receives documents within the meaning of 3.1, it may not use these without the consent of the other party, except where this is necessary to process the offer and the order, and for assembly, start-up, use and maintenance of the goods delivered. Such documents may not be used, copied, reproduced, made available to third parties or disclosed for

other purposes without the prior written consent of the other party.

- 3.4. The Customer must immediately return to the Supplier any documents within the meaning of 3.1 that do not result in an order or are no longer required.
- 3.5 All rights, claims and obligations set out in this clause shall apply irrespective of the form of storage or the storage medium.

4. Regulations in the country of destination and protective devices

- 4.1. The Customer shall draw the Supplier's attention to all regulations and standards ("regulations") that are of significance for sale and use at the place of destination, at the latest when the order is placed. This shall apply, *inter alia*, for regulations relating to the export of goods and services, operation, labelling and disposal, preventive healthcare, occupational safety, environmental protection, and conservation of energy and raw materials. Observance of such regulations in the design of the goods to be supplied, and assembly and/or supervision of assembly by the Supplier shall be agreed in writing and priced separately.
- 4.2. Unless otherwise agreed in writing, the goods and services supplied shall comply with the regulations and standards at the Supplier's registered place of business. Additional or different equipment (e.g. protective devices) will only be supplied if this is explicitly agreed in writing.

5. Prices, delivery clause

- 5.1. Unless a different agreement is made, the Supplier's current prices as at the date of conclusion of the contract shall apply. Except where otherwise agreed, all prices exclude value-added tax, EXW from the place of collection specified by the Supplier (Incoterms 2010), without packaging, and payment shall be in freely available Swiss francs without any deductions. All ancillary costs, e.g. for freight, insurance, export, transit, import and other permits and certificates shall be borne by the customer. Similarly, the Customer shall be liable for all types of taxes, levies, fees, customs duties and the like incurred in connection with the contract, or shall reimburse these to the Supplier on submission of evidence if the Supplier is required to pay them.
- 5.2. If the delivery is not EXW (Incoterms 2010) (because free domicile accordance with CO 189 III or FOB, CFR, CIF (Incoterms 2010) is agreed) and if a supplementary charge is agreed for this, the Supplier reserves the right to increase the supplementary charge to cover higher effective costs and/or rates unless the increases are due to any fault on the part of the Supplier. The Customer is free to provide evidence that the costs and rates did not increase or did not increase to the extent claimed.
- 5.3. The Supplier reserves the right to alter prices if wage rates or material prices change between the date of the offer and performance of the contract. The Supplier may provide evidence of the changes by

demonstrating that the change corresponds to the price adjustment formula recommended by the Swiss association of mechanical and electrical engineering industries (SWISSMEM).

The Supplier may also adjust prices appropriately if

- the delivery date is extended retroactively for one of the reasons specified in section 8.3, or
- the type and scope of the agreed delivery or service alters through no fault of the Supplier, or
- the material or construction have altered because the details or documents provided by the Customer did not reflect the actual circumstances or were incomplete.

6. Payment terms

- 6.1. Payments shall be made by the Customer in accordance with the agreed terms of payment to the Supplier's domicile without deduction of discounts, expenses, taxes, levies, fees, customs duties and the like. Except where otherwise agreed, the price is payable in the following instalments:
 - 30% as a down payment immediately after receipt of the order confirmation by the Customer.
 - 30% down payment within 4 months from receipt of the order confirmation by the Customer.
 - 30% immediately after notification that the equipment or samples are ready for shipment, prior to delivery by the Supplier.
 - 10% on handover and at the latest 30 days after delivery or notification by the Supplier that the goods are ready for shipment.

The payment obligation is performed when Swiss francs are paid over at the Supplier's domicile and are fully at the disposal of the Supplier. If payment by bill of exchange is agreed, the Customer shall bear the discount, tax and collection expenses, which shall be reimbursed to the Supplier if the Supplier is liable for payment thereof to third parties or the fiscal authorities.

- 6.2. The payment dates must also be observed if transport, delivery, assembly, start-up or acceptance of the goods or services is delayed or impossible or if minor parts are missing or reworking is necessary. This shall only apply if such circumstances are beyond the Supplier's control.
- 6.3. If the Customer fails to make a payment or to provide the contractually agreed security when the contract is concluded, the Supplier may uphold the contract or withdraw from it after setting an appropriate deadline, and may demand compensation in both cases.
- 6.4. If the Customer is in arrears with a payment for any

reason or if the Supplier has serious grounds to fear that it will not receive the Customer's payment in full or on schedule due to circumstances that occurred after conclusion of the contract, the Supplier shall be entitled, without prejudice to its legal rights, to suspend further performance of the contract and to retain shipments that are ready for dispatch, until new payment and delivery terms have been agreed and the Supplier has received adequate security. If such agreement cannot be reached within an appropriate period of maximum 10 days, or if the Supplier does not receive sufficient security, it is entitled, after setting an appropriate deadline, to withdraw from the contract and demand compensation. In the case of contracts for the manufacture of non-fungible goods (goods produced to individual specification), the Supplier may immediately declare that it is withdrawing from the contract; the statutory regulations on the dispensability of setting a deadline shall not be affected.

- 6.5. If the Customer does not meet the agreed payment dates, it shall pay interest from the agreed date of payment, without the issue of a reminder, based on the statutory interest rate of 5% p.a. or a higher interest rate that a bank of customers choice in Switzerland or (at customers choice) in the Customer's country declares is the going rate for unsecured working capital loans to companies of the Customer's size and type. The right to claim further compensation is reserved.

7. Retention of title

- 7.1. The Supplier shall retain title to the goods sold until complete payment of all present and future claims by the Supplier under the supply contract and any current business transactions (secured receivables). This shall also apply if all or individual claims by the Supplier are set out in a current invoice and the balance is determined and recognized.
- 7.2. The Customer is required to provide assistance with any measures that are necessary to protect the Supplier's property; in particular, the Customer authorizes the Supplier upon conclusion of the contract to undertake, at the Customer's cost, the registration or pre-registration of title in public registers, books and similar in accordance with the relevant national laws and to perform all related formalities. The Customer shall store and maintain the items delivered at its cost for the Supplier for the duration of the period of retention of title and insure them for the benefit of the Supplier against theft, vandalism, breakage, fire, water, transport damage and loss in transit. Further, the Customer shall take all necessary measures to ensure that the Supplier's title is not impaired or rescinded.
- 7.3. Retention of title does not affect the provisions on the transfer of risk set out in section 10.
- 7.4. In the event of a breach of contract by the Customer, especially non-payment of the due purchase price,

the Supplier shall be entitled to withdraw from the contract in accordance with the statutory provisions and/or to demand return of the goods on the grounds of retention of title. Demanding return of the goods does not constitute a declaration of withdrawal from the contract; rather, the Supplier is entitled to simply demand return of the goods and to reserve the right of withdrawal. If the Customer does not pay the purchase price due, the Supplier may only enforce these rights if it has previously set the Customer an appropriate deadline for payment or such deadline is not required under the statutory regulations. In such cases, the Customer is required to return the goods that are subject to retention of title. If the Customer refuses to return the goods that are subject to retention of title, the Supplier shall have the right to enter the Customer's business premises and remove the goods that are subject to retention of title. In any case, the Supplier can forbid the removal of goods to which it retains title.

- 7.5. The Customer is authorized to sell and/or to process goods subject to retention of title in the course of its normal business operations. In this case, the following supplementary provisions apply:

- (a) Retention of title extends to the full value of the products resulting from processing, mixing or combining our goods with our goods at their full value, with the Supplier deemed to be the manufacturer. If retention of title continues when the goods are processed, mixed or combined with third-party goods, the Supplier shall be granted co-ownership proportionately to the invoiced value of the processed, mixed or combined goods. In all other respects, the product manufactured shall be subject to the same conditions as the goods supplied that are subject to retention of title.

- (b) The Customer hereby assigns the receivables from third parties relating to the sale of the goods or product to us as security, in full or proportionately based on any co-ownership rights in accordance with the preceding paragraph. The Supplier accepts this assignment. The obligations of the Customer set out in section 7.6 shall also apply analogously with respect to the receivables assigned.

- (c) Alongside the Supplier, the Customer remains authorized to collect the receivables. The Supplier hereby undertakes not to collect the receivable as long as the Customer fulfils its payment obligations to the Supplier, is not in arrears, has not filed an application to open insolvency proceedings and there has not been any other deficiency in its performance. In this case, however, the Supplier can demand that the Customer discloses assignment of the receivables and the debtors, provides all information required for collection, hands over the associated documents and notifies the debtors (third parties) of the assignment.

- (d) If the realizable value of the security exceeds the Supplier's claims by more than 10%, the Supplier shall release security of its choice at the Customer's request. In such cases, the Customer shall store the goods to which the Supplier holds title or co-

ownership rights, which are also deemed to constitute goods supplied within the meaning of the above provisions, on behalf of the Supplier free of charge and shall insure them to the benefit of the Supplier as provided for in 7.2.

- 7.6. The goods subject to retention of title may not be pledged to third parties or assigned as security until complete payment has been received for the secured receivables. The Customer shall notify the Supplier in writing without delay if and insofar as third parties access the goods belonging to us.

8. Performance period

- 8.1. Except where otherwise agreed, the performance period starts as soon as the contract is concluded, the Customer has provided the Supplier with evidence of fulfilment of all official formalities such as import, export, transit and payment permits, the payments to be made on placement of the order and other payments due have been made, any security has been furnished and the main technical points have been agreed in writing. The performance period shall be deemed to be fulfilled if notification that the goods are ready for shipment has been sent to the Customer by the end of the period.
- 8.2. Adherence to the performance period is contingent upon the Customer performing its contractual duties.
- 8.3. The performance period shall be extended appropriately:
- if the Supplier does not receive the details needed for performance of the contract in good time, or if they are subsequently altered by the Customer and this causes a delay in performance;
 - in the event of hindrances that the Supplier could not avoid despite taking the necessary care, regardless of whether they arise at the Supplier, the Customer or a third party. Such hindrances comprise, for example, epidemics, mobilization, war, uprisings, substantial business interruptions, accidents, industrial disputes, delayed or faulty delivery of the necessary raw materials, semi-finished or finished components, unusability of important parts, measures taken or omitted by the authorities, and natural events, provided that these are beyond the Supplier's control.
 - if the Customer or a third party contractor is behind schedule with the work to be performed or the performance of its other contractual duties or obligations, especially if the Customer does not meet the payment terms.
- 8.4. If the Supplier is unable to meet binding delivery dates for reasons beyond its control (non-availability of contractually agreed work), it shall inform the Customer of this without delay and also notify the Customer of the expected new delivery date. If the con-

tractually agreed work is not available by the new deadline, the Supplier is entitled to withdraw from the contract in full or in part; the Supplier will refund any consideration already paid by the Customer without delay. Non-availability of work within the meaning of this clause is, in particular, failure by a vendor to deliver on time, if the Supplier has concluded a transaction for the matching time period, where neither the Supplier nor its vendor is at fault or in individual cases where the Supplier is not obliged to undertake procurement.

- 8.5. The occurrence of delivery delays by the Supplier shall be governed by the legal provisions. In this case, however, the Customer is required to issue a reminder. If delivery by the Supplier is delayed, the Customer can demand a fixed rate of compensation for the delay. The fixed rate of compensation comprises 0.5% of the net price (delivery value) for each complete calendar week of the delay, but at most 5% of the delivery value of the delayed goods. The Supplier retains the right to provide evidence that the Customer did not incur any damage or that the damage was substantially less than the above rate. If the Customer is assisted by a substitute on-time delivery, the claim to the above compensation for delay shall lapse.

There is no claim to the above compensation for the first two weeks of the delay.

Once the maximum level of compensation has been reached, the Customer shall set the Supplier an appropriate new deadline in writing. If this subsequent deadline is not met for reasons beyond the Supplier's control, the Customer is entitled, insofar as separation of the outstanding delivery is reasonable for the Customer, to refuse to accept the delayed part of the delivery and to demand repayment of amounts already paid for this part of the delivery.

- 8.6. If, instead of a performance period a specific date is agreed, this shall be deemed to constitute the last day of a performance period; sections 8.1 to 8.5 shall apply analogously.
- 8.7. This shall not affect the Customer's rights pursuant to section 14 of these General Terms and Conditions and the Supplier's statutory rights, especially in the case of exclusion of the obligation to deliver (e.g. due to the impossibility or unreasonableness of performance and/or subsequent performance).

9. Packaging

Transport and other packaging within the meaning of the law shall be invoiced additionally by the Supplier; ownership is transferred to the Customer and the packaging cannot be returned to the Supplier. However, if the packaging or transport equipment (e.g. pallets) is explicitly marked as the property of the Supplier or in another way, the Customer must return this to the supplier DDP place of origin (Incoterms 2010).

10. Transfer of risks and benefits

- 10.1. The risks and benefits are transferred from the Supplier to the Customer on delivery EXW (Incoterms 2010) at the place specified in the clause.
- 10.2. Further, the risk of accidental loss or accidental deterioration of the goods is transferred at the latest when the goods are handed over to the Customer, except where a specific Incoterms clause is specified. However, in the event of a separately agreed sales shipment, the risk of accidental loss or accidental deterioration of the goods and the risk of delay are transferred when the goods are delivered to the carrier, freight forwarder or other natural person or legal entity charged with shipment. Insofar as an acceptance procedure is agreed (see section 12 of these General Terms and Conditions), this shall be decisive for the transfer of risk. Handover or acceptance shall be deemed to be the same if acceptance is delayed by the Customer. If transfer or, in the case of a separately agreed sales shipment, shipping is delayed at the request of the Customer or for other reasons beyond the Supplier's control, the goods shall be stored by the Supplier at the Customer's cost and risk.
- 10.3. If acceptance is delayed by the Customer, or the Customer fails to collaborate or delays the Supplier's delivery for other reasons for which the Customer is responsible, the Supplier is entitled to demand compensation for the damage incurred, including additional expenses (e.g. storage costs).
- 10.4. This shall not prejudice provision of evidence of greater damage provided by the Supplier or the Supplier's statutory claims (especially reimbursement of additional expenses, appropriate compensation, termination); however, the amount shall be offset against any further financial claims. The Customer shall be entitled to provide evidence that the Supplier did not sustain any damage, or substantially less damage, than the above amounts.
- 10.5. The provisions on the transfer of risks and benefits set out in sections 10.1 to 10.4 shall remain in force even if start-up or assembly of the goods supplied is undertaken by the Supplier on the Customer's premises.

11. Shipping, transport and insurance

- 11.1. The goods may be shipped to a different destination at the Customer's cost provided a timely written request is submitted. The Customer must provide the Supplier with timely written notification of any special requirements with regard to shipping, transport and insurance. Except where otherwise agreed following a written request of this type, the Supplier may determine the method of shipment (especially the carrier, mode of transport and packaging). In such cases, where no other agreement is made, the Customer shall bear the transport costs ex warehouse and the cost of any transport insurance explicitly requested in writing by the Customer. The Customer shall address any complaints relating to shipping or transport to the last freight carrier immediately upon receipt of the delivery or the freight documents. The Supplier must be notified thereof accordingly.

- 11.2. The Customer shall be responsible for insurance against damage of any type in connection with shipment.

12. Separate outgoing inspection, acceptance modalities

- 12.1. If the Customer requires the Supplier to inspect the goods prior to shipment, this shall be agreed separately and paid by the Customer.
- 12.2. Performance of an outgoing inspection and definition of the applicable conditions requires a special agreement – subject to the requirement for an acceptance procedure following the rectification of defects as set out in section 13.7. If an acceptance test is specifically agreed, the following shall apply unless otherwise agreed:
 - The Supplier shall notify the Customer of performance of the acceptance test in good time so that the Customer or a representative may be present.
 - A record shall be made of the acceptance test and signed by the Customer and the Supplier or their representatives. This shall state that the goods have been accepted or accepted with reservations or that the Customer has refused acceptance. In the last two cases, the defects identified shall be listed separately in the record.
 - The Customer may not refuse acceptance and refuse to sign the acceptance record due to minor defects, especially defects that do not materially affect the functionality of the goods. The Supplier shall rectify such defects without delay.
 - If there are substantial deviations from the contract or serious defects, the Customer shall give the Supplier an opportunity to rectify them within an appropriate time period. A further acceptance test shall then be performed.

If substantial deviations from the contract or serious defects are again identified in this acceptance test and the contracting parties have agreed a price reduction, compensation payment or other compensation for this case, the Customer can claim these. However, if the defects or deviations identified in this acceptance test are so serious that they cannot be remedied within an appropriate period, and the goods cannot be used for the proposed purpose or can only be used to a considerably reduced extent for this purpose, the Customer shall not have any claim to an agreed price reduction, compensation payment or other agreed compensation; instead, the Customer has the right to refuse to accept the faulty part or, if partial acceptance is not commercially reasonable, may withdraw from the contract as set out in section 13.9. Otherwise section 13.10 applies.

12.3. Acceptance is also deemed to be completed

- if the acceptance test cannot be performed on the proposed date for reasons beyond the Supplier's control
- if the Customer refuses acceptance without justification
- if the Customer unjustifiably refuses to sign an acceptance record in accordance with section 12.4
- within 12 calendar days from the start of use of the goods by the Customer if no reservations are expressed within this period.

13. Customer claims due to defects

- 13.1. In the event of defects of quality and legal deficiencies (including incorrect delivery or delivery shortfalls, incorrect assembly, inadequate assembly instructions, faulty supervision of assembly), the statutory provisions shall apply, except where otherwise specified below. This shall not in any case affect any special statutory provisions that are applicable if the end-customer for the goods is a consumer (recourse against suppliers). With regard to assembly and/or supervision of assembly, attention is drawn to the fact that the currently applicable version of the General Assembly Conditions of the Swiss association of mechanical and electrical engineering industries (SWISSMEM) also applies.
- 13.2 The basis for the Supplier's liability for defects is the agreement concluded on the properties of the goods. All product descriptions that form part of the individual contract shall constitute an agreement on the properties of the goods. Assured properties are only those that are explicitly designated as such in the Supplier's order confirmation or the specifications attached to the order confirmation. This assurance shall be valid at most until the end of the warranty period. If an acceptance test is agreed, the assurance shall be deemed to be fulfilled if evidence of the agreed properties is provided at this test.
- 13.3 If no agreement was made on the properties of the goods and/or an assured property, an assessment as to whether or not there is a defect shall be made in accordance with the statutory regulations. However, the Supplier does not accept any liability for public statements by third parties (e.g. advertising statements).
- 13.4 Customer claims due to defects require that the Customer has fulfilled its statutory inspection and notification obligations. If the Customer does not fulfil its statutory inspection and notification obligations, the goods or services supplied shall be deemed to be approved, except in the case of a defect that could not be identified by inspection. If a defect is identified in the inspection or subsequently, the Supplier shall be notified of this in writing without delay. Without delay means notification within two weeks; timely dispatch of the notification is deemed sufficient to meet

this requirement. The notification must clearly identify the delivery and contain a detailed description of each defect, comprising a description of the symptoms and conditions of use and the date on which the defect occurred. Irrespective of this inspection and notification obligation, the Customer shall notify the Supplier in writing within two weeks of any obvious defects (including incorrect delivery and delivery shortfalls); timely dispatch of the notification is deemed sufficient to meet the deadline. If the Customer fails to perform the proper inspection and/or notification, the Supplier shall not be liable for the defects that have not been notified.

- 13.5. If the delivery is faulty, the Supplier may first choose whether to rectify the defect by way of subsequent performance (reworking) or supply a non-defective item (replacement delivery). This shall not affect the Supplier's right to refuse subsequent performance in accordance with the statutory provisions. Parts replaced shall be the Supplier's property and shall be handed over to the Supplier by the Customer.
- 13.6. The Supplier may make subsequent performance dependent on payment of the due purchase price by the Customer. The Customer is, however, entitled to withhold part of the purchase price that is appropriate relative to the defect.
- 13.7. The Customer shall give the Supplier the necessary time and opportunity for subsequent performance, especially by handing over the defective goods for testing. In the event of a replacement delivery, the Customer shall return the faulty goods to the Supplier in accordance with the statutory provisions. Subsequent performance shall not include either de-installation of the defective goods or renewed installation if the Supplier was not originally required to undertake installation. Following subsequent performance, an acceptance test pursuant to section 12.2 shall be performed at the request of the Customer or the Supplier.
- 13.8. Expenses incurred for the purpose of testing and subsequent performance, especially transport, travel, labour and material costs (but not: removal and installation costs) shall be borne by the Supplier in the event of an actual defect). However, if the Customer's claim to rectification of a defect is not justified, the Supplier can demand reimbursement by the Customer of the costs incurred.
- 13.9. If subsequent performance fails or a reasonable deadline for subsequent performance set by the Customer lapses or is not necessary under the statutory provisions, the Customer can withdraw from the purchase agreement or reduce the purchase price. However, there is no right of withdrawal for a minor defect.
- 13.10. Claims by the Customer for compensation or reimbursement of fruitless expenditures are only permitted to the extent of the provisions in section 14; otherwise they are excluded.
- 13.11 Excluded from the Supplier's warranty or liability are deviations from the contractual properties and damage that is not demonstrably caused by poor materials, faulty construction or faulty workmanship, for example as a result of natural wear, faulty maintenance.

nance, failure to observe operating instructions, excessive use, shutdown, unsuitable operating media, chemical or electrolytic influences, faulty materials provided by the Customer, construction or assembly work that was not performed by the Supplier and other factors that cannot be attributed to the Supplier.

13.12. Supply and delivery by subcontractors: In the case of supply and delivery by subcontractors, the Supplier shall only assume the warranty in connection with the subcontractor's corresponding realizable obligations to the Supplier. Further liability for work performed by subcontractors is excluded.

14. Other liability

14.1. Except where different arrangements arise from these General Terms and Conditions, including the following provisions, the Supplier shall be liable for breach of contractual and non-contractual obligations in accordance with applicable statutory provisions.

14.2. The Supplier shall be liable for compensation - for whatever legal reason - in the event of intentional actions or gross negligence. In the event of minor negligence, the Supplier shall only be liable

- a) for damage to life, limb or health
- b) for damage caused by breach of a material contractual obligation (an obligation whose performance makes the normal performance of the contract possible or that the contractual parties normally rely on and may be expected to rely on); in this case, however, the Supplier's liability shall be limited to replacement of the foreseeable damage that would typically occur.

14.3 The restriction of liability arising from section 14.2 shall not apply in the case of malicious non-disclosure of a defect by the Supplier or if a warranty has been given for the properties of the goods. This shall also apply for claims asserted by the Customer under the applicable product liability legislation.

14.4 The Customer may only withdraw from or terminate the contract due to a breach of contract that does not constitute a defect if the Supplier is responsible for the breach of contract. The Customer shall not have a free right of termination. In all other cases, the statutory requirements and legal consequences shall apply.

15. Limitation period

15.1. The general limitation period for claims arising from defects of quality and legal deficiencies shall be one year from delivery. This period shall commence on the later of the following dates:

- i. if delivery is ex works (EXW Incoterms 2010): on delivery
- ii. even if delivery is agreed under terms other than EXW (e.g. free domicile, FOB, CFR, CIF, etc.): when the goods leave the works
- iii. insofar as the Supplier also undertakes assembly, upon completion as documented in the handover record. If handover/acceptance or assembly is de-

layed on grounds beyond the Supplier's control, the warranty period shall end on the earlier of the following events:

- a) at the latest 18 months after the contractual delivery date.
 - b) 10 million strokes in presses with maximum press force equal to or greater than 400 tonnes
 - c) 15 million strokes in presses with maximum press force equal to or less than 320 tonnes
- iv. where an acceptance test was specifically agreed (section 12.2), on acceptance. If acceptance is delayed for reasons beyond the Supplier's control or if the press is operated despite a faulty acceptance test, the warranty shall end with the earlier of the following events:
- a) at the latest 18 months after the contractual delivery date.
 - b) 10 million strokes in presses with maximum press force equal to or greater than 400 tonnes
 - c) 15 million strokes in presses with maximum press force equal to or less than 320 tonnes

15.2 This shall not affect special statutory regulations relating to third-party claims for the restitution of goods in rem in the event of malicious intent by the Customer and any special rules applicable for statutory claims relating to the recourse to suppliers in the case of supply to end-users.

15.3. A new warranty period shall start for replacement or repaired parts. This shall end on the earliest of the following dates: (i) six months from replacement, completion of the repair or acceptance or (ii) on the day on which the warranty under section 15.1 of these General Terms and Conditions would end if it were twice as long. This shall not apply if the subsequent rectification is linked to acknowledgement of a defect by the Supplier.

15.4. The warranty shall expire prematurely if the Customer or a third party undertakes improper modification or repairs, the goods delivered are stored incorrectly, taken into service unexpectedly or taken out of service for a long period, unless the cause of the defect giving rise to the warranty is not attributable to one of the above circumstances.

15.5 The above periods of limitation under sales law shall also apply for contractual and non-contractual claims for compensation by the Customer on the basis of a defect in the goods, unless application of the normal statutory period limitation would result in individual cases in a shorter period of limitation. In any case, the periods of limitation under the applicable product liability legislation shall not be affected. Otherwise, only the statutory periods of limitation shall apply for claims for compensation by the Customer in accord-

ance with section 14.

16. Termination of the contract by the Supplier

- 16.1 If unforeseen events or events beyond the control of the Supplier or the Customer significantly alter the economic significance or the content of the goods or services, or have a considerable impact on the work of the Supplier, and if performance should subsequently prove impossible, the contractual parties may jointly agree on appropriate amendment of the contract, based on the principle of good faith. If amendment of the contract is not possible or is not reasonable for one contractual party, the disadvantaged party may withdraw from the contract or, insofar as partial performance of the contract without the affected part of the contract is reasonable for the other party, may withdraw from the affected part of the contract.
- 16.2. If the Supplier wishes to use the option of terminating the contract, it must notify the Customer within an appropriate time as soon as the extent of the event is recognized. If an extension of the delivery period is agreed and the Supplier subsequently decides that it nevertheless wishes to terminate the contract, it must notify the Customer within an appropriate time. In the event of termination of the contract, the Supplier shall be entitled to the consideration for the goods and services already supplied. Claims for compensation from the Customer are excluded insofar as the Supplier is not at fault.

17. Third-party claims

If third parties should make claims against the Supplier or its agents (or announce such claims are to be made) in connection with action taken or omitted by the Customer or its agents, the Customer must indemnify the Supplier and its agents against all appropriate expenses incurred in the defence against such claims (including their time, pre-litigation and litigation-related expenses for appraisal reports, outlays, lawyers' fees and court fees) and shall also fully indemnify the Supplier against all compensation, interest, contract penalties, fines, fees and other disadvantages, provided the Supplier is not at fault.

18. Assembly

If the Supplier also undertakes assembly or supervision of assembly and there is no ruling on a specific aspect in either the main contract or these General Terms and Conditions, the latest version of the General Assembly Conditions of the Swiss association of mechanical and electrical engineering industries (SWISSMEM) shall apply.

19. Applicable law and place of jurisdiction

- 19.1. These General Terms and Conditions and the entire legal relationship between the Supplier and Customer shall be governed exclusively by Swiss law, sub-

ject to the proviso of section 19.2; moreover, the United Nations Convention on Contracts for the International Sale of Goods (Vienna Convention or CISG) and other uniform international law shall not apply.

- 19.2. Instead of Swiss law, the provisions on contractual agreements, the retention of title and their extension (section 7) shall be subject to the law of the country where the goods are to be delivered under the supply contract. If the choice of law should be inadmissible or invalid, the law at the place where the goods are currently stored shall apply.
- 19.3. The sole place of jurisdiction for all disputes arising directly or indirectly from this contractual relationship is Lyss, Switzerland; however, the Supplier may also invoke courts responsible for the Customer's registered place of business or for the location of the goods to which it retains title.