

General Terms and Conditions of Supply

1 Applicability, interpretation

- 1.1 These General Terms and Conditions of Supply (**General Terms and Conditions**) apply to all business transactions of Aequator AG and any of its affiliates (if any; together **Aequator**) with any of their customers, unless Aequator expressly states anything to the contrary in writing.
- 1.2 These General Terms and Conditions apply, in particular, to any contracts with any customers of Aequator for the sale and/or delivery of movable goods, irrespective of whether Aequator manufactures them itself or purchases them from vendors or both, including any spare parts and accessories (**Supplies**), as well as to the provision of any related services (e.g. assembly or installation or supervision of assembly or installation, "train the trainer" instructions) (**Services**) by Aequator (**Contract**), any Orders of customers and the related Order Confirmation of Aequator. Any future Contracts as well as any Orders and Order Confirmations shall automatically be subject to the General Terms and Conditions in their version prevailing at the time of conclusion of the relevant Contract, without any need for Aequator to refer to them specifically.
- 1.3 In case of any conflict between a specific Contract and these General Terms and Conditions, the Contract shall prevail.
- 1.4 These General Terms and Conditions apply exclusively to the business relationship of Aequator with any customer, without regard to any general terms and conditions or similar documents of a customer of Aequator. Any general terms and conditions issued by a customer that deviate from these General Terms and Conditions shall only become part of the business relationship of such customer with Aequator if and to the extent Aequator expressly accepts such general terms and conditions in the respective Contract. Such requirement applies in all cases, even if, for example, Aequator is aware of the customer's deviating general terms and conditions but Aequator does not conclude the Contract with such customer on the condition that such customer's general terms and conditions do not apply.
- 1.5 If the customer resorts to support by any affiliates or third party providers in fulfilling the respective Contract with Aequator, the customer undertakes that such affiliates and third party providers fully adhere to these General Terms and Conditions.
- 1.6 These General Terms and Conditions form an integrating part of any Contract, as if they were set forth in full in the body of the Contract itself.
- 1.7 For any interpretation of these General Terms and Conditions, the following rules shall apply:
- (a) The meaning given to a term with a capitalized initial letter in these General Terms and Conditions shall equally apply to the singular and the plural of such term.
- (b) The term "day" means a calendar day unless otherwise indicated.
- (c) The term "Business Day" means any day other than a Saturday or a Sunday which is not a public holiday at the registered offices of Aequator AG in Arbon, Switzerland.
- (d) The term "Clause" refers to a clause of these General Terms and Conditions.
- (e) If words such as 'hereof', 'herein' and 'hereunder' and words with a similar meaning are used in these General Terms and Conditions, they shall refer to these General Terms and Conditions and to the Contract(s) with the respective customer as a whole including any appendices and not to a particular provision of that agreement.
- (f) Whenever words such as 'such as', 'including', 'e.g.', 'in particular' or similar are used in these General Terms and Conditions, they shall be deemed to be followed by the words "without limitation" and the respective enumeration shall be deemed exemplary and not concluding.
- (g) The words 'becomes due', 'become due', 'is due' or 'are due' are meant to include the word payable (i.e. *fällig und zahlbar*).
- (h) Where these General Terms and Conditions and/or the relevant Contract require a communication to be made in writing, such communication must be made by letter, fax or e-mail in order to be valid. Where these General Terms and Conditions and/or the relevant Contract require the signatures of the parties, the relevant communication shall be made in writing and bear the physical signatures of persons who are authorised to represent the relevant party in order to be valid.
- (i) Whenever an English word or term in these General Terms and Conditions is accompanied by a German word or term in italics and brackets, the German word or term alone shall be decisive for the interpretation of the respective word as well as the entire Clause, as

the case may be. Such rule applies to any repetition of such English word or term throughout the Agreement irrespective of whether only one, more, or all such words or terms are accompanied by a German word or term in italics and brackets.

- 1.8 Aequator retains the right to amend these General Terms and Conditions, fully or partially, at any time without any prior notice whatsoever.

2 Conclusion of Contracts, Orders

- 2.1 Any solicitation of a customer by Aequator for an offer or an offer of Aequator to any customer for the sale and delivery of any Supplies and/or the provision of any Services is non-binding. They are only binding if and to the extent and for the period expressly stated in the respective document issued by Aequator in writing and signed by Aequator. In contrast, any order of a customer of Aequator of any Supplies and/or Services constitutes a binding offer of such customer to Aequator for at least ten (10) days from the date Aequator receives them.
- 2.2 Any Contract is concluded only upon Aequator countersigning the respective instrument in writing that was prepared by Aequator and first signed by the relevant customer.
- 2.3 Any orders of a customer under a Contract for the sale and delivery of any Supplies and/or the provision of Services (**Order**) as well as any amendments of, and additions to, any Orders shall, no matter how they were made, only be binding upon Aequator if confirmed by Aequator by an instrument in writing and signed by Aequator (**Order Confirmation**).
- 2.4 In case of any conflict between an Order and the respective Contract, the Contract or the relevant Order Confirmation shall prevail.

3 Scope of Supplies and Services

- 3.1 Any Supplies and Services are exhaustively specified in the relevant Contract or Order Confirmation, as the case may be.
- 3.2 If any Supplies shall be sold and delivered and/or Services provided that are not specified in the respective Contract or Order Confirmation, as the case may be, such Supplies and Services require the explicit confirmation by Aequator and must be agreed upon by an instrument in writing and signed by Aequator in order to be legally binding upon Aequator.

4 Plans and technical documents

- 4.1 Any data, documents and information about and with respect to any Supplies and Services such as catalogues, technical documentation and information (e.g. drawings, plans, calculations,

estimates, references to technical standards, production documents), product descriptions and marketing materials, no matter in what form, provided by Aequator to a customer are for information purposes only. They are not binding upon Aequator and do neither constitute nor invoke any duties or obligations on Aequator.

- 4.2 Only technical information attached to or incorporated by reference into a Contract shall be legally binding upon Aequator. In turn, the customer undertakes to fully adhere to such technical information at any given time. Aequator does not bear any liability whatsoever for non-compliance of the customer with such technical information.
- 4.3 No customer must copy, develop further or disseminate such data, documents and information in whatsoever manner without the prior written consent of Aequator.
- 4.4 Any customer shall immediately return any documents referred to in Clause 4.1 to Aequator upon first request, at the latest upon the customer informing Aequator that it no longer wants to order Supplies and/or Services from Aequator.

5 Prices, Adjustments, Discounts

- 5.1 Unless otherwise expressly agreed in a specific Contract or Order Confirmation, as the case may be, all prices shall be deemed to be net EXW, excluding packing, any taxes (such as VAT), any duties and levies and any additional charges such as for freight, insurance, import, transit, export, permits and certifications, which shall all be fully borne by the customer.
- 5.2 If delivery is not EXW (Incoterms prevailing at the relevant date; at the first enactment of these General Terms and Conditions, Incoterms2020) and Aequator and the relevant customer agreed that Aequator shall bear all or part of related costs and therefore on a supplementary charge, Aequator reserves the right to increase the supplementary charge to cover higher effective costs and/or rates unless the increased costs and/or rates are caused by grossly negligent or intentional acts or omissions of Aequator.
- 5.3 Aequator reserves the right to increase prices if costs, in particular wage rates, raw material and energy prices increase between the conclusion of the respective Contract and the contractually agreed performance. Aequator may demonstrate that the increase corresponds to the price adjustment formula recommended by the Swiss association of mechanical and electrical engineering industries (SWISSMEM).
- 5.4 Aequator may further adjust any prices if, following the conclusion of any Contract:

(a) the delivery date and/or time is extended retroactively for one of the reasons specified in Clause 9.4;

(b) the terms and conditions of a sale and delivery of Supplies and/or provision of Services as agreed in a Contract are changed without Aequator's fault;

(c) materials and/or construction of Supplies or the terms of Services have changed because any data, documents or information furnished by the relevant customer were not in conformity with the actual circumstances or were incomplete; or

(d) any laws, rules and regulations as well as applicable standards or principles of interpretation or application have changed and effect the sale and delivery of the respective Supplies or the provision of the respective Services.

- 5.5 Any discounts by Aequator that depend on the number of Supplies ordered by a customer over a certain period of time will be granted by Aequator as a credit to the next Order of a customer upon the respective period of time having elapsed.

6 Terms of payment

- 6.1 Unless otherwise expressly agreed in a specific Contract, any prices shall payable by the customer by wire transfer in freely available funds denominated in Swiss francs (CHF) without any deductions whatsoever. Any bank charges and similar fees relating to any payment/wire transfer shall exclusively be borne by the customer.
- 6.2 Any payments by customers shall be deemed to have been made correctly and on time only if the respective amount has been credited in full without any deductions to the bank account that Aequator has specified in the relevant Contract by the last day of the payment period granted by these General Terms and Conditions, the relevant Contract or Order Confirmation.
- 6.3 Unless agreed otherwise in the respective Contract, any prices shall be due and payable (*fällig und zahlbar*) in the following instalments:
- 50 per cent within 10 days from the date of the respective Order Confirmation, in any case prior to any delivery; and
 - 50 per cent within 30 days from the date of the respective invoice;
- such payment dates expressly constituting expiration dates (*Verfalltag*).
- 6.4 If the customer does not pay the price or not in full on time, it shall automatically and without the requirement of any reminder by Aequator (*Mahnung*) be in default. The customer shall

become liable for late payment interest (*Verzugszins*) with effect from (and including) the day immediately following the last day of the applicable payment period at a rate of 1.25 per cent per month. Moreover, the customer shall compensate Aequator for any damages and losses that Aequator incurs from the customer's delayed payment (*Verspätungsschaden*). Also, the customer shall bear any consequences of any accidental damages to or destruction of the relevant Supplies (*Haftung für den Zufall*), in case the risks (*Gefahrtragung*) relating to the relevant Supplies have not already been transferred to the customer pursuant to these General Terms and Conditions or the relevant Contract.

7 Retention of title and ownership

- 7.1 Aequator shall retain title of, and ownership in, any Supplies sold until full payment and full settlement of all present and future claims of Aequator against the customer under and in accordance with the relevant Contract and any related pending business transactions (**Retention**).
- 7.2 The customer shall assist Aequator in any measures that are necessary to protect Aequator's title and ownership in any Supplies. The customer particularly authorizes Aequator, upon conclusion of the relevant Contract, to register, at the customer's cost, its title in public books or registers in accordance with the relevant national laws and to execute all required documentation. The customer shall store and maintain the items delivered at its cost for Aequator for the duration of the period of Retention and insure them for the benefit of Aequator against fire, natural hazard, earth quake, damage (including breakage and vandalism, transport damage) and loss (including theft and in transit). Further, the customer shall take all necessary measures to ensure that Aequator's title and ownership is neither impaired nor rescinded.
- 7.3 Any Retention does not affect the transfer of benefit and risk set out in Clause 10.
- 7.4 If the customer breaches the relevant Contract, in particular by not paying the purchase price when due, Aequator shall have the right to withdraw from the respective Contract and/or to demand return of the Supplies on the grounds of the Retention. Demanding return of the Supplies does not have to constitute a declaration of withdrawal from the Contract. Rather, Aequator is entitled to simply demand return of the Supplies and to reserve the right of withdrawal from Contract. If the customer refuses to return the Supplies that are subject to Retention, Aequator shall have the right to enter

the customer's business premises and to remove the Supplies that are subject to Retention. Any preliminary measures to prevent the customer from removing the Supplies (including actual enforcement) remain reserved.

7.5 The customer is authorized to sell and/or to process Supplies that are subject to Retention in the ordinary course of its business, subject to the following specific provisions:

(a) If Retention continues when Supplies are combined with third-party goods, Aequator shall be granted co-ownership proportionately to the invoiced value of the combined goods.

(b) The customer hereby assigns the receivables from third parties relating to the sale of these goods to Aequator as security, in full or proportionately based on any co-ownership rights in accordance with the preceding sub-Clause 7.5(a). Aequator accepts this assignment. The obligations of the customer set out in Clause 7.6 shall also apply accordingly with respect to the assigned receivables.

(c) The customer remains authorized to collect the receivables and Aequator undertakes not to collect the receivable as long as and to the extent the customer (i) fulfils its payment obligations to Aequator, (ii) is not in arrears, with any payments, (iii) has not delayed or stopped payments and (iv) has not filed an application to open insolvency or statutory restructuring proceeding. In such case, the customer shall notify the relevant debtors (third parties) and provide Aequator with all information that Aequator may require to collect the assigned receivables.

(d) If the realizable proceeds of the assigned receivables exceed Aequator's claims by more than the amount that Aequator may claim in accordance with Clause 6, Aequator shall release security of its choice at the customer's request.

7.6 Any Supplies that are subject to Retention must not serve as security until full payment has been received by Aequator for the secured receivables. The customer shall immediately notify Aequator if a third party tries to encumber Supplies that are subject to Retention.

8 Place of delivery

8.1 Unless not explicitly agreed to the contrary, EXW (Incoterms prevailing at the relevant date; at the first enactment of these General Terms and Conditions, Incoterms 2020) shall apply to any sale and delivery of Supplies by Aequator to any customer. Place of delivery shall be the premises of Aequator in Arbon, Switzerland.

9 Delivery date, time or period

9.1 Any delivery date, time or period for the delivery

of Supplies and the provision of Services shall only be binding if specified as such in the relevant Contract or Order Confirmation, as the case may be.

9.2 Unless not otherwise specified in the relevant Contract or Order Confirmation of Aequator, any delivery date, time or period shall only apply or start upon (a) the relevant Contract having been concluded, (b) all required formalities have been completed, (c) any amounts due have been fully paid, (d) any agreed securities have been obtained, and (e) any technical issues having been settled.

9.3 Any delivery date, time or period shall be deemed to be observed if by that date or time or within that period Aequator has made available the relevant Supplies at the agreed place of delivery pursuant to Clause 8.1, and/or has started providing the relevant Services, respectively.

9.4 Any delivery date or time shall be reasonably postponed and any delivery period reasonably extend if:

(a) the customer does not or not timely provide data, documents and information that Aequator requires for the performance of the relevant Contract;

(b) the customer requires amendments of, and/or additions to, any Contract or Order Confirmation (even though accepted by Aequator pursuant to Clause 2.3 or 22.3);

(c) hindrances beyond Aequator's reasonable influence occur, regardless of whether they affect only Aequator, the customer and/or any third party but which do not constitute a Force Majeure Event; such hindrances including manufacturing breakdowns, accidents, labour conflicts, late or deficient delivery by providers of raw materials, semi-finished or finished products, the need to scrap important work pieces, any actions or omissions by any authorities or state or supranational bodies, embargoes, unforeseeable transportation issues;

(d) any provider of Aequator is behind schedule for reasons that are beyond Aequator's influence.

9.5 Unless a ground listed in Clause 9.4 applies, the customer shall be entitled to claim damages (*Schadenersatz*) from Aequator for delayed delivery of Supplies or delayed provision of Services if and to the extent it can demonstrate that (a) it has actually suffered damages or losses as a result of such delay and (b) the delay was caused by Aequator. The customer shall not be entitled to damages if and to the extent (a) it can reasonably accommodate such delay or (b) it can recover any financial consequences of the

delay caused by Aequator, e.g. by an insurance.

- 9.6 Damages for delayed deliveries shall in no event exceed 0.5 per cent of the relevant invoiced amount for every full week's delay and shall in no event whatsoever altogether exceed [*5 per cent of the invoiced amount*] of the part of the Supplies or Services in delay. No damages at all shall be due for the first two weeks of any delay. After reaching the maximum amount of damages for delayed delivery, Aequator shall be granted a reasonable additional delivery time. If Aequator can still not deliver on time for reasons within Aequator's control, the customer shall have the right to reject the delayed part of the Supplies or Services. If a partial acceptance is economically not justified on the part of the customer, the customer shall be entitled to cancel the respective Order and to claim refund of the money already paid against return of the delivered Supplies.
- 9.7 Any delay of Aequator in the delivery of Supplies or the provision of Services does not entitle the customer to any claims, rights and remedies other than those stipulated in this Clause 9.

10 Transfer of benefit and risk

- 10.1 Any benefits and risks relating to any Supplies transfer from Aequator to the customer in accordance with the prevailing Incoterms.
- 10.2 Accordingly, any risk of loss or deterioration of Supplies transfers from Aequator to the customer in any case at the time when Aequator makes the Supplies ready at the agreed place of delivery (Clause 8.1) pursuant to Clause 9.1 at the latest.
- 10.3 If a customer is delayed in taking over or accepting any Supplies, in default with any payment or delays Aequator's delivery for other reasons for which the customer is responsible, the benefits and risks related to the relevant Supplies shall nevertheless transfer from Aequator to the customer.

11 Liability for defects, guarantee

- 11.1 Aequator warrants that any Supplies are free from defects in quality (*Sachmangel*) and title (*Rechtsmangel*) as of the date and time of delivery of the relevant Supplies pursuant to the respective Contract or Order Confirmation (*Sach- bzw. Rechtsgewährleistung*), and for 12 months (6 months in case of Supplies used in a multi-shift system) from the date and time of delivery of Supplies pursuant to the respective Contract or Order Confirmation or, in case of any installation by Aequator at the customer, upon completion thereof (*Garantie*). Claims based on fundamental errors (art. 23 et seq. Swiss Code of Obligation **(CO)**) shall be

precluded.

- 11.2 'Defects in quality' in term of Clause 11.1 include lack of fitness for use of the Supplies intended and publicly advertised by Aequator, incorrect delivery or delivery shortfalls, incorrect assembly and assembly instructions. Defects resulting from normal wear and tear, improper maintenance, failure to observe any instructions of Aequator, improper packaging, careless transportation, excessive loading, handling without the requisite care and diligence, insufficient water filtration, influence of chemical or electrolytic action, missing or inappropriate care and cleaning, use of unauthorised spare parts and accessories, taking out of service for a long period of time or into service without the requisite preparation or resulting from any other reasons beyond Aequator's control are excluded from the supplier's liability for defects (*Gewährleistung*) and guarantee (*Garantie*). Express warranties (*zugesicherte Eigenschaften*) are only those that have expressly been granted by Aequator in the respective Contract.
- 11.3 'Defects in title' in terms of Clause 11.1 shall only apply in relation to the jurisdiction where the Supplies shall be delivered to. No defect in title exists if the customer is responsible for the violation of any third party rights, in particular due to any of its instructions.
- 11.4 Provided that the customer has correctly examined the relevant Supplies in accordance with Clause 12.2 and properly notified Aequator of any defects in accordance with Clause 12.3, and Aequator or the competent court or tribunal considers the customer's claim of defects justified, Aequator shall have the right to remedy such defects in quality and/or title by, at its sole and absolute discretion, either repairing or replacing the defective Supplies by non-defective Supplies (*Nachbesserung*) or to fully or partially withdraw from the respective Order, to take the respective defective Supplies or all delivered Supplies back against a refund of the respective price. The customer shall not have any right to choose between repairing or replacing the defective Supplies by non-defective Supplies (*Nachbesserung*) or withdrawing from the respective Order (*Wandelung*) or to ask for a reduction of the price (*Minderung*). Aequator shall replace or repair the defective Supplies as soon as practicably doable, in any case within 180 days from the customer's notice of defect in accordance with Clause 12.3 (in case of a replacement) or within 180 days from receiving the defect Supplies from the customer. The customer shall send Supplies to be repaired to Aequator, and Aequator shall send repaired Supplies to the customer, DAP (Incoterms

prevailing at the relevant date; at the first enactment of these General Terms and Conditions, Incoterms 2020), delivered at place indicated by the receiving party.

- 11.5 Only if Aequator's undertakings to repair or replace the defective Supplies fail within the time frame specified in Clause 11.4, either completely or in part, the customer shall have the right to:
- (a) if the relevant Supplies are still suitable for their intended use: claim a reduction of the purchase price with respect to the Supplies in respect of which Aequator's undertakings to repair or replace fail, whereby such reduction of purchase price shall be proportional to the reduction in value that the relevant Supplies incur from the defect;
- (b) if the defects are of such significance that the Supplies cannot be used for their intended use at all: right to reject the defective Supplies, to cancel the respective Order and to claim refund of the money already paid against return of the delivered Supplies.
- 11.6 The customer may only claim damages (*Schadenersatz*) in relation to any defects in quality and title of any Supplies under Clause 11.5(b), where the customer shall be entitled to claim any direct and immediate costs and expenses (but not, for the avoidance of doubt, any losses, in particular any lost profits, and any claims of its own customers) that it incurred with respect to the defective Supplies that it would not have incurred if it had not ordered the defective Supplies (*negatives Vertragsinteresse*).
- 11.7 For replaced or repaired Supplies, the guarantee period starts anew but only lasts 6 months from thereplacement or completion of the repair.
- 11.8 Notwithstanding the requirements of proper examination and notification of Aequator of any defect pursuant to Clauses 12.2 and 12.3 and the existence of any defect pursuant to Clause 11.2, any warranty and guarantee rights of the customer pursuant to Clause 11 shall be forfeited if (a) the customer or a third party modifies or repairs any Supplies without the prior written consent of Aequator, or (b) the customer does not immediately take all reasonably available measures to mitigate the damage.
- 11.9 For the avoidance of doubt: repaired and replaced Supplies or parts thereof shall be subject to Retention as if they were free from defect.
- 11.10 Deficiencies of any kind of any Supplies donot entitle any customer to any claims, rights and remedies other than those stipulated in Clause 11.

12 Inspection of Supplies, notice of defect

- 12.1 Aequator examines any Supplies in the course of its internal manufacturing and in particular quality control procedures. Any checks, examination and testing beyond that level of examination including its respective terms and conditions as well as any warranted characteristics of any Supplies (*zugesicherte Eigenschaften*) have to be expressly agreed upon in the respective Contract in order to be valid if the customer requires such checks, examination or testing or such warranted characteristics.
- 12.2 The customer shall thoroughly inspect any Supplies at the earliest instance possible, i.e. when taking them over at the agreed place of delivery or upon delivery to its own premises, in any case not later than the earlier of (a) 5 days upon the delivery of the relevant Supplies to the customer's premises or (b) any use of the Supplies by a customer for its own purposes. Any use of Supplies shall be deemed to be an acceptance of the Supplies and exclude any related warranties and guarantees of Aequator in favour of the customer.
- 12.3 Should the customer detect any defect as to quality or title when inspecting any Supplies in accordance with Clause 12.2, it shall immediately, i.e. within 5 days, notify Aequator about these defects in writing, failing which any related warranties and guarantees of Aequator in favour of the customer shall be forfeited. Such notice shall be accompanied by any data, documents and information that evidence the defect claimed by the customer and that are available to the customer at that time.
- 12.4 The customer shall have the right, at its own costs and expenses, to call in any experts when examining any Supplies in order to thoroughly examine any alleged defects. Such right to call in experts does not, however, relieve the customer from its duties to timely examine any Supplies in accordance with Clause 12.2 and to timely notify Aequator of any alleged defects in accordance with Clause 12.3.

13 Improper Services

- 13.1 Aequator bears responsibility for (a) the correct instruction of the responsible person (e.g. head technical engineering, head customer service) of a customer and/or any of its delegates on the correct installation, use and maintenance of any Supplies in the course of "train the trainer" courses held at the premises of Aequator and (b) correct advice given by the customer service of Aequator to technicians of the customer. Any other assistance or support of any customer by Aequator is given as a matter of courtesy only without any liability of Aequator whatsoever.

13.2 Should any customer feel that Aequator has rendered any Services improperly, it shall immediately inform Aequator about such improperly rendered services in writing, together with any data, documents and information that are available to the customer on such allegedly improperly rendered Services.

13.3 Deficiencies of any kind in any Services do not entitle any customer to any claims, rights and remedies other than those stipulated in this Clause 13.

14 Other liability

14.1 Unless set forth otherwise in these General Terms and Conditions and/or any Contract with any customer, Aequator shall be liable for breach of contractual and non-contractual obligations in accordance with applicable statutory provisions.

14.2 Aequator shall only be liable for fraudulent, intentional or grossly negligent actions or omissions. Unless mandatory statutory provisions or the Contract with the relevant customer expressly provide for otherwise, Aequator shall not be liable for medium and slight negligent acts or omissions. The liability of Aequator for any acts or omissions of any auxiliary persons (*Hilfspersonen*) pursuant to article 101 CO shall expressly be excluded.

14.3 Except where mandatory statutory provisions or the Contract of Aequator with the relevant customer expressly provide for otherwise, Aequator shall only be obliged to replace direct and immediate damages (*direkte, unmittelbare Schäden*) that the customer actually, demonstrably, verifiably and adequately-causally incurs from the respective acts or omissions of Aequator, but not any indirect and/or immediate damages, in particular no compensatory (e.g. loss of profit), consequential (e.g. loss of orders, recall costs, third party claims), incidental, nominal, liquidated or punitive damages. No undertaking of Aequator to replace damages of any customer shall be deemed an indemnification (*Schadloshaltung*) or similar.

14.4 Where Aequator transfers or assigns any work or services to a third party manufacturer / service provider, article 399 CO applies.

15 Limitation periods

15.1 Claims arising out of or in connection with defects of quality and/or title of any Supplies shall be time barred (*verjähren*) and forfeited (*verwirken*) 1 year from delivery date or time agreed in the respective Contract or stipulated in the respective Order Confirmation, irrespective of whether any Supplies are integrated in any products of the customer and

whether such products are movable or not. Article 210 CO shall not apply.

15.2 A new limitation period (*Verjährungsfrist*) shall start for replaced or repaired Supplies or parts thereof. Claims arising out of or in connection with defects of quality and/or title of any replaced or repaired Supplies or parts thereof shall be time barred and forfeited at the earlier of (a) 6 months from delivery date or time agreed in the respective Contract or stipulated in the respective Order Confirmation, and (b) the day on which the limitation period would end if it was twice as long.

16 Exclusion of any further liability of Aequator

16.1 Except where mandatory statutory provisions or the Contract of Aequator with the relevant customer expressly provide for otherwise,

(a) the liability of Aequator towards any customer shall exclusively and exhaustively be governed by these General Terms and Conditions and the relevant Contract(s) between Aequator and the relevant customer;

(b) the total amount of any claims of any customer towards Aequator is limited to the purchase price actually paid by the relevant customer.

17 Intellectual property, confidentiality

17.1 All intellectual property relating to any Supplies including any data, documents and information in that respect including information referred to in Clause 3.1 shall always be the sole and absolute ownership of Aequator. No sale and delivery and/or any provision of Supplies of Aequator to any customer shall lead to any transfer of any intellectual property in any Supplies and any related data, documents and information.

17.2 To the extent required when granting any customer access or insight in any data, documents and information relating to any Supplies, such access or insight shall constitute a perpetual, non-exclusive, non-transferrable, non-sub-licensable and non-alienable license of Aequator to the customer with respect to the relevant information. Aequator expressly reserves the right to claim any license fee. Aequator also reserves the right to terminate any such licence at any time without notice with immediate effect.

17.3 The customer shall solely be responsible that its products and services that include or are based on Supplies and/or Services do not violate any third party intellectual property and intellectual property rights.

17.4 The customer shall keep confidential any data,

documents and information about Aequator and any of its products and services that it receives from Aequator or to which it gains access to and with respect to which Aequator has expressly stated that such documents are of a non-confidential nature or with respect to which the non-confidential nature is outright visible from the type of the relevant data, documents or information.

18 Third party claims

- 18.1 If a third party claims damages from Aequator, imposes sales bans or invokes similar precautionary measures on Aequator and/or any Supplies or Services because of (a) an installation of Supplies by the customer in violation of instructions of Aequator at such third party, (b) improper functionality of products of a customer in which it integrated Supplies or products and services of a customer that are based on Supplies and/or Services, or (c) any of the customer's products and services violates any third party intellectual property or intellectual property rights, irrespective of the underlying grounds, the customer undertakes to fully assume the dispute with such third party and shall fully indemnify Aequator against, and hold Aequator fully harmless from, any damages and losses (including reasonable agent's fees) that Aequator may incur from such claims, precautionary measures or similar actions of such third party.

19 Export / import control, compliance

- 19.1 The customer recognises that any Supplies may be subject to Swiss and/or foreign export / import control laws, rules and regulations and thus must not allowed to be sold, leased or otherwise transferred or used for a purpose other than the agreed purpose without an export or re-export permit of the competent authority. The customer undertakes to fully complying with such laws, rules and regulations. It is aware that these laws, rules and regulations may change and that they apply to the relevant Contract in the version that prevails at any given time.
- 19.2 Unless expressly otherwise agreed in writing, any Supplies shall comply with the pertinent laws, rules and as well as standards at Aequator's registered place of business prevailing at the date of dispatch at Aequator's premises. Additional or different equipment (e.g. protective devices) will only be supplied if explicitly agreed in the respective Contract.
- 19.3 The customer shall solely be responsible for its products and services that include or are based on Supplies and/or Services being in compliance with any applicable laws, rules and regulations at the place(s) where it intends to use the

Supplies and/or Services.

20 Force majeure

- 20.1 If any Force Majeure Event prevents Aequator, either fully (*Nichterfüllung*) or partially (*Schlechterfüllung*), from fulfilling its Contractual duties and obligations or renders the compliance of Aequator with its Contractual duties and obligations unreasonably and thus unacceptable, Aequator shall have the right to withdraw from the respective Contract immediately without notice. In such case, Aequator shall not bear any responsibility whatsoever towards the relevant customer. In particular, Aequator shall not have to indemnify such customer and hold such customer harmless from any financial consequences that such withdrawal from Contract may have.
- 20.2 If any Force Majeure Event prevents Aequator from timely fulfilling its Contractual duties and obligations (*Verzug*), the customer shall not have any right to withdraw from the respective Contract and to demand damages from Aequator. Rather, Aequator has the right to decide whether to uphold the respective Contract and to fulfil its Contractual duties and obligations as soon as and to the extent the situation permits or to withdraw from the agreement. In either case, Aequator shall not bear any responsibility whatsoever towards the relevant customer. In particular, Aequator shall not have to indemnify such customer and hold such customer harmless from any financial consequences that such postponement of delivery or withdrawal from Contract may have.
- 20.3 A **Force Majeure Event** pursuant to these General Terms and Conditions shall be deemed to include any event, incident, occurrence, happening or non-occurrence of any event, incident or happening or similar that is beyond the reasonable control of Aequator, in particular fire (including smoke, heat, lightning, explosions), any elementary events (e.g. flooding, storms, hail, snowfall), earthquakes, any sabotages and obstructions, riots and political unrest, any acts of war or terrorism, epidemics and pandemics (or similar events) as well any consequential governmental restrictions (e.g. restrictions of trade, any curfews or similar) and/or any shortfall of any public infrastructure (e.g. transportation, energy and IT supply).

21 Communication

- 21.1 Any declarations and notifications to be submitted by the customer to Aequator and vice versa after conclusion of the Contract (e.g. the setting of deadlines, notice of defects, declaration of withdrawal and reductions) that

shall be legally binding shall only be effective if made with an instrument in writing and signed by the respective party (the written and signed document, however, can be transmitted by Fax or E-Mail; original document to follow upon the receiving party's request).

- 21.2 The customer bears the risk that a communication is received by Aequator complete and unaltered.
- 21.3 The customer acknowledges that any e-mail that Aequator receives from any customer shall be deemed to be written and dispatched by the person who shall be attributed to the address of the sender, irrespective of whether such e-mail has effectively been written by such sender or has reached Aequator unaltered. If a customer transmits statements and instructions via e-mail, Aequator may assume that the person who has sent such statement or instruction has been authorized to do so.
- 21.4 Aequator shall be entitled to record telephone conversations with customers and to use such audio recordings not only as evidence but also to document the business relationship with the relevant customer and for marketing purposes.

22 Miscellaneous

- 22.1 The customer expressly waives any right to set off any claims it may have against Aequator with any claims of Aequator for the payment of the price of the relevant Supplies and/or Services or for any damages.
- 22.2 No customer must transfer its Contract(s) with Aequator, its position as a party thereto or any rights, duties or obligations thereunder to any other person without the prior written consent of Aequator.
- 22.3 Any alterations of, and any amendments to, any Contract between Aequator and any customer require an instrument in writing, signed by all involved parties, unless not expressly agreed by the involved parties to the contrary in the relevant Contract.
- 22.4 If one or more provisions of these General Terms and Conditions or any part of such provision should prove void, invalid or ineffective, the remaining provisions of these General Terms and Conditions or the remaining part of the affected provision shall remain unaffected by such void, invalid or ineffective provision or part thereof. The void, invalid or ineffective provision or part of a provision shall be replaced by Aequator with a provision or part thereof that approximates the void, invalid or ineffective provision to the largest extent possible from an economic and legal stand point, without being itself void, invalid or ineffective.

23 Applicable law and jurisdiction, enforcement

- 23.1 Any business relationship with Aequator shall entirely and exclusively be governed by, and construed in accordance with, the laws of Switzerland, excluding its conflict of law principles and any international treaties, in particular the UN Convention on Contracts for the International Sale of Goods.
- 23.2 As the sole exception to Clause 23.1, the retention of title pursuant to Clause 7 shall be governed by the law of the country where the Supplies are to be delivered in accordance with the relevant Contract. If such choice of law should be void, invalid or ineffective in such country, the law at the place where the Supplies are currently stored shall apply.
- 23.3 Unless not expressly agreed otherwise to the contrary in a Contract, any disputes arising out of or in connection with any business relationship between Aequator and any customer shall be subject to the exclusive jurisdiction of the courts at the place of incorporation of Aequator. Aequator shall have the right, however, to invoke proceedings against any customer at the customer's place of business or the place where any Supplies are located at any given time.
- 23.4 In case of a customer abroad, the place of incorporation of Aequator shall serve as a special domicile (*Spezialdomizil*) of the customer pursuant to art. 50 para. 2 Swiss Debt Collection and Bankruptcy Act (*Schuldbetreibungs- und Konkursgesetz*).