

1. Scope

These are the Terms and Conditions (**T&Cs**) of Eichenberger Motion AG (CHE-110.482.173), Grenzstrasse 30, 5736 Burg, Switzerland (**Eichenberger**).

These T&Cs shall apply to all Eichenberger products and services. These T&Cs shall also apply exclusively to all contracts concluded between Eichenberger and its customers, and shall take priority over customers' terms of business. Eichenberger shall only be bound by divergent terms and conditions if Eichenberger has expressly consented to such terms and conditions in writing. The customer shall obtain this consent from Eichenberger separately for each specific case.

These T&Cs shall be regarded as accepted by and binding on the customer at the latest when the products or services are received.

Eichenberger shall have the right to change, adapt or add to these T&Cs at any time; the most up-to-date version of the T&Cs as made available on the Eichenberger website or by other means shall apply.

2. Conclusion of contract

Offers made by Eichenberger, whether solicited or unsolicited, shall not be binding, provided nothing has been expressly stated to the contrary (Art. 7(1) OR, Swiss Code of Obligations).

A contract shall not be concluded until Eichenberger has provided a written order confirmation; said contract shall pertain to the products and/or services stated in the order confirmation and to the conditions listed therein. Should the order confirmation be inconsistent with these T&Cs, the provisions in the order confirmation shall take priority.

Modifications and supplements shall always require the written form. Means of electronic communication shall only apply as the written form if this has been agreed by the parties concerned.

3. Brochures and technical documentation

Brochures and catalogues shall not be binding, unless otherwise agreed in writing. Equally, information given in technical documentation shall only be binding insofar as it has been expressly warranted.

Each party shall retain all rights to plans and technical documentation which he has handed over or otherwise made available to the other party. The receiving party shall accept these rights and shall not make the plans and technical documentation available to third parties, either in whole or in part, unless authorised to do so in writing by the other party in advance, nor shall he use the plans and technical documentation for any purpose other than the purpose for which they have been handed over.

4. Prices and payment terms

All prices shall be net, exclusive of VAT and other taxes, ex works, not including postage and packing, customs duties or other charges, insurance, assembly and suchlike, nor discounts of any kind (any discounts shall be reimbursed by the customer). Offsetting against any claims on the part of the customer shall be excluded.

Costs for packaging, transport, insurance, assembly and suchlike shall be borne by the customer or shall be in-

voiced to the customer separately. The conditions and cost positions specified in the invoice shall apply in this regard. The invoice shall be submitted to the customer at the same time as the products are delivered or the service provision is completed.

The term of payment for customers with a head office and delivery address in Switzerland shall be thirty (30) calendar days net from the date of invoice. For deliveries to other countries, payment shall be made, provided nothing has been agreed to the contrary in writing, by means of an irrevocable letter of credit confirmed by a Swiss bank.

Should there be a delay in payment, Eichenberger shall have the rights defined in Item 7 Section 3 (retention of deliveries and so on); Eichenberger shall also be authorised to invoice for interest on payments in arrears in the amount of six percent (6%) p.a. on the outstanding invoice amount.

5. Place of performance

The place of performance for all services provided by Eichenberger and the customer shall be Eichenberger head office.

6. Benefits and risks

The benefits and risks of products shall transfer to the customer on handover to the freight carrier ex works. Should handover to the freight carrier be delayed for reasons attributable to the customer, the benefits and risks shall transfer to the customer at the point in time when Eichenberger informed the customer the goods were ready to deliver.

Insurance for the products and transport, as well as costs for any subsequent assembly and commissioning work, shall be a matter for the customer.

7. (Partial) delivery

Delivery shall be made in the form agreed with the customer.

Eichenberger shall be authorised to make partial deliveries.

Delays in payment for previous deliveries and changes in the customer's circumstances, which jeopardise payment for products or services, shall authorise Eichenberger to retain deliveries and/or to demand advance payment or to withdraw from the contract; the right to enforce claims for damages shall be reserved.

8. Delivery time and delay in delivery

All legal relationships with customers shall be subject to Eichenberger receiving correct, complete and punctual delivery of required materials, as well as to unforeseen events such as force majeure, transport delays, interruption of operations and so on; this shall also apply to deliveries of the raw and auxiliary materials needed to manufacture the products or provide the services. Should Eichenberger default on a delivery commitment, and should Eichenberger be at fault for the delay, the customer shall be authorised, after an appropriate grace period of at least four (4) weeks has elapsed without results, provided he is able to prove a loss arising from this circumstance, to demand reimbursement of the damages caused by the delay in the amount of no more than five percent (5%) of the price of the product or service for which Eichenberger

has defaulted on delivery. The customer shall only be permitted to withdraw from the contract in the event of significant non-conformance which makes it impossible to use the products and/or services for their intended purpose, or makes it possible to use them only to a considerably limited extent. All other claims (of any kind whatsoever) on the part of the customer, namely consequential damages, shall be excluded.

Should delivery periods be agreed, the period shall start to elapse, provided nothing has been agreed to the contrary, when the order confirmation is supplied or the contract is signed by Eichenberger. The delivery period shall be extended, in addition to the aforementioned reasons, should

- Eichenberger not receive the information required to make delivery promptly or should the customer change said information retrospectively,
- the customer or a third party not have completed all necessary work or should they be delayed in fulfilling their contractual duties, and
- in all other circumstances where Eichenberger is not liable.

In these circumstances too, any legal consequences shall only ensue following a written reminder from the customer.

9. Reservation of title

The products shall remain the property of Eichenberger until the purchase price has been paid in full and all associated claims by Eichenberger have been settled. Eichenberger shall be authorised and licensed by the customer to have the reservation of title entered into the relevant registers at the customer's cost. The customer shall bear the costs of any measures required to protect Eichenberger's title.

10. Warranty

Warranted characteristics shall be only those characteristics which are expressly stated and warranted in the corresponding product specification or specification of services. No liability shall be accepted for other or further characteristics.

The warranty period shall be twelve (12) months from handover of the product to the freight carrier or provision of the service.

The customer shall check the products delivered or the service provided immediately, and give notice of any defects in writing without delay. Products and services shall be classed as accepted should the customer not give notice of any defects within eight (8) days of delivery or performance.

For defects which have been reported properly and promptly, Eichenberger shall decide whether to meet its warranty obligations by reducing the agreed price or, as the case may be, by delivering faultless replacement products or correcting the services. Other legal remedies shall be excluded. For replacement products or corrected services, Eichenberger shall only provide a warranty to the same extent as for the original products or services. For replaced or repaired products or corrected services, the warranty period shall start over and shall last for six (6) months from the date of the replacement/repair/correction, but a maximum of eighteen (18) months from handover of the product to the freight carrier or provision of the service.

Should the defect or the lack of a warranted characteristic have originated in a delivery or service from a sub-supplier, Eichenberger's liability shall be restricted to the assignment of the claims against the sub-supplier(s) to which Eichenberger is entitled.

Warranties of any kind shall become void in circumstances where the customer modifies or carries out repairs on products or does not use them for their intended purpose (instructions for operation) or maintains them poorly. Equally, warranties of any kind shall become void should a defect occur and should the customer not immediately take all appropriate steps to minimise the damage, inform Eichenberger of the defect or give Eichenberger an opportunity to rectify it.

Should products or services be created or performed in accordance with customer specifications, Eichenberger shall only accept liability for the precise realisation of the customer specifications; no further duties shall be incumbent on Eichenberger.

11. Liability

Any liability for products and services on Eichenberger's part beyond that stated in Item 10 for whatever legal ground shall be hereby excluded to the extent permitted by law.

Equally, liability of any kind for consequential damages (caused by a defect), lost profit, other indirect losses and suchlike shall be excluded.

12. Applicable law

Swiss law shall apply to these T&Cs and all Eichenberger order confirmations and contracts, excluding the provisions of private international law and international sales law as per the United Nations Convention on Contracts for the International Sale of Goods (CISG) of 11 April 1980.

13. Place of jurisdiction

The ordinary courts of the canton of Aargau, place of jurisdiction Aarau, shall be solely responsible for adjudicating on all disputes arising from these T&Cs, order confirmations and contracts.