

Terms of Sale and Delivery

1. General

- 1.1. Any contractual relationship between Swan Analytische Instrumente AG (Supplier) and the Buyer shall be subject to the following Terms of Sale and Delivery ("Terms"), irrespective of any contrary terms set by the Buyer.
- 1.2. Unless otherwise agreed by the parties in writing, any current or future contractual relationship shall be subject to these Terms, even where they are not specifically mentioned in purchase orders.
- 1.3. By placing an order, the Buyer agrees to these Terms, regardless of any contrary terms of purchase of the Buyer.
- 1.4. Purchase orders are not regarded as accepted until all details have been confirmed in writing.
- 1.5. Oral agreements shall only be valid when confirmed in writing.
- 1.6. The Supplier may request a surety or prepayment prior to acceptance and execution of purchase orders.

2. Prices

- 2.1. The prices for the Products shall be based on the international manufacturer recommended sales price (MRSP) in Swiss Francs, as may be amended by the Manufacturer from time to time.
- 2.2. Prices stated in the MRSP, in offers or purchase orders shall not be binding. Only the order confirmation shall be binding. The Buyer shall accept demonstrable subsequent increases of costs and fees incurred by the Supplier. Additional orders shall be billed separately.
- 2.3. The Supplier shall be entitled to a reasonable surcharge for orders of small quantities.
- 2.4. All prices are based on a delivery ex works. Transport and packaging shall be charged separately.

3. Delivery and Risk of loss or damage

- 3.1. Absent any other agreement in writing, the Supplier shall deliver the goods to the Buyer ex works (Incoterms 2000).
- 3.2. Any risk of loss or damage of the goods passes to the Buyer when the goods are made available to the Buyer ex works.

- 3.3. The Supplier shall do his best to meet the delivery dates as offered and agreed upon. The buyer shall not be entitled to rescission of the contract or damages on account of late deliveries.

4. Notice of Defects and Objection

- 4.1. Any incompleteness or incorrectness of deliveries may only be objected to by the Buyer in writing within 8 days after arrival of the goods. Otherwise the delivery is deemed to be accepted.
- 4.2. Latent defects are subject to the terms of warranty of the corresponding goods.

5. Warranty

- 5.1. The Supplier warrants that the products are free from defects in material and workmanship under normal use during the warranty period.
- 5.2. The warranty period begins with the date of delivery to the Distributor and ends 18 months thereafter. The warranty period can be extended for specific parts with a written declaration from the Manufacturer.
- 5.3. During the warranty period, the Supplier will, at his place of business, repair or replace free of charge defective parts with new parts or, at the option of the Supplier with used parts that are equivalent to new parts in performance. All exchanged parts and Products replaced under this warranty will become the property of the Supplier.
- 5.4. Shipping cost will be paid by the Buyer.
- 5.5. The foregoing warranty shall apply only when the Products are used in accordance with the instructions of the Supplier and the purpose for which they are manufactured and sold. It excludes expendable parts.
- 5.6. This warranty does not extend to any product not provided by the Supplier. It does not extend to any Product that has been damaged or rendered defective (a) as a result of accident, misuse, or abuse; (b) by the use of parts not supplied by the Supplier; or (c) by modification of the Product not made by Supplier.
- 5.7. Supplier is not liable for any damages caused by the Product or the failure of the Product to perform, including any lost profits, lost savings, incidental damages, or consequential damages. Supplier is not liable for any claim made by a third party or made by Buyer for a third party.
- 5.8. Except as expressly set forth in this warranty, Supplier makes no other warranties, express or implied, including any implied warranties of merchantability and fitness for a particular purpose. Supplier expressly disclaims all warranties not stated in this

warranty. Any implied warranties that may be imposed by law are limited to the terms of this express warranty.

6. Payment

- 6.1. Invoices are due within 60 days after invoice date net of any deductions.
- 6.2. Payment by checks shall be regarded as payments only as of the date of encashment of the check.
- 6.3. The Buyer is excluded from retaining payment due to any claims he might have against Supplier and is not entitled to set off claims.
- 6.4. An interest of 10% p.a. is automatically due for overdue accounts i.e. without any additional default notice.

7. Retention of Title

- 7.1. All supplied good remain the sole property of the Supplier until the Buyer has fully paid for the respective items. The Buyer agrees that the Supplier may register the retention of title without the involvement of the Buyer.
- 7.2. The Buyer shall only be entitled to sell products subject to retention of title within the ordinary course of business. Any fiduciary transfer of ownership or pledging of goods which are subject to retention of title is excluded. The Buyer shall reimburse the Supplier for all expenses incurred in connection with assertion of his claims.

8. Replacement, Return

- 8.1. Replacement and return of goods shall only be admissible with prior consent of the Supplier. The resultant costs of transport and packaging shall be paid by the Buyer.
- 8.2. The Supplier reserves the right to charge the Buyer resultant cost for inspection, cleaning, repairing and re-storage.

9. Jurisdiction and Applicable Law

- 9.1. The Supplier's domicile shall be the place of performance for delivery and payment.
- 9.2. Any dispute, controversy or claim arising out of, or in connection with the contractual relationship between the Supplier and the Buyer and/or these Terms, including the validity, invalidity, breach or termination thereof, shall be resolved by arbitration in accordance with the Swiss Rules of International Arbitration of the Swiss Chambers of Commerce in force on the date when the Notice of Arbitration is submitted in accordance with these Rules.

The number of arbitrators shall be one.

The seat of the arbitration shall be Zurich.

The arbitral proceedings shall be conducted in English.

- 9.3. These Terms shall be governed by, interpreted and construed according to the laws of Switzerland to the exclusion of the (Vienna) UN Convention on Contracts for the International Sale of Goods of 1980.