

Terms of delivery of Saia-Burgess Controls AG

1. Validity

Sales by Saia-Burgess Controls AG (hereinafter SBC AG) are expressly limited to the terms herein and any additional or different terms or conditions on purchaser's purchase order or any other instrument, agreement, or understanding are deemed to be material alterations and are rejected and not binding upon SBC AG, unless expressly and in writing accepted by SBC AG. SBC AG's acceptance of purchaser's purchase order is expressly conditional upon purchaser's assent to the terms and conditions contained herein in their entirety. Purchaser's acceptance of delivery from SBC AG constitutes purchaser's acceptance of these terms and conditions in their entirety.

2. Scope and mode of delivery

The scope and the mode of delivery are those specified in the order confirmation. Materials or work not mentioned therein will be charged separately.

3. Prices

- 3.1. Prices are understood to be ex works (EXW), excluding any deductions whatsoever.
- 3.2. Prices are calculated on the basis of material prices, wage rates and other costs of manufacture, freight, rates of exchange, customs duties, taxes and levies in effect at the time of the quotation. Increases in such cost factors occurring up to the time of delivery will be charged to the purchaser.

4. Terms of payment

- 4.1. The invoice is payable within thirty days after the date of invoice. Payment is considered as made when and to the extent that payment in Swiss francs is at the free disposal of SBC AG in Switzerland.
- 4.2. If the purchaser does not pay within the agreed time, interest shall accrue on the arrears from the due date, without any specific reminder, at the rate applied in Switzerland to short-term bank credits. If the price is due in a foreign currency, the interest rate charged will be that applied to short-term bank credits in the currency's home country; in addition, the purchaser shall indemnify SBC AG for any currency losses between due date and payment date.
- 4.3. The purchaser shall comply with the dates of payment even if transportation, delivery, erection, commissioning or acceptance of the consignment is delayed or prevented by for reasons beyond the control of SBC AG. The purchaser is not entitled to withhold or reduce payments because of complaints, nor to offset them against counter-claims that SBC AG does not recognize or that have not been established with any legal force.

5. Delivery period

- 5.1. The delivery period commences as soon as the contract has been concluded, when all official formalities such as export, import and payment permits have been obtained, when payments and securities due upon placing the order have been made and when the essential technical points have been settled. The delivery period is deemed to have been respected if, on expiry, the goods are ready for despatch. Partial deliveries and partial invoicing are allowed.
- 5.2. The delivery period will be reasonably extended if hindrances beyond the control of SBC AG arise, such as the absence of official export, import or payment permits, payment delays, delayed provision of technical data, subsequent modifications of the order, cases of "force majeure" such as epidemics, war, revolution, serious factory disruptions, accidents, labour conflicts, late or deficient reception of necessary raw or other materials, important work-pieces becoming unserviceable, official measures, natural phenomena. If the force majeure event continues for longer than 90 days, either party may terminate purchaser's purchase order. If purchaser terminates the order,

purchaser will pay SBC AG for work performed prior to termination and all reasonable expenses incurred by SBC AG prior to termination.

- 5.3. Claims by the purchaser for damages or for penalties due to contractual non-fulfilment such as for late delivery are excluded.
- 5.4. If delivery of goods or services is delayed, the purchaser must set SBC AG a reasonable extension period of at least four (4) weeks. If this is exceeded by reasons attributable to SBC AG, the purchaser is entitled to refuse to accept delivery of the delayed part of goods or services. If merely partial acceptance places an unreasonable burden on the purchaser, the purchaser is entitled to withdraw from the whole contract.
- 5.5. If SBC AG does not insist on fulfilment of the contract, and if the purchaser cancels the order for reasons not attributable to SBC AG, a contract penalty of 20% becomes due on the contract price that relates to the cancelled part of goods or services to be delivered, unless SBC AG should prove higher damages.

6. Termination and Rescheduling

- 6.1. No Purchaser's purchase order may be terminated without SBC AG's prior written consent. Purchaser is, nonetheless liable for termination charges, which may include (a) a price adjustment based on the quantity of goods delivered, (b) all costs, direct and indirect, incurred and committed for purchaser's terminated purchase order, (c) the full cost of all unique materials required for custom goods, and (d) a reasonable allowance for prorated expenses and anticipated profits consistent with industry standards. SBC AG may terminate a purchaser's purchase order in whole or in part upon purchaser's breach of these terms and conditions or purchaser's bankruptcy, insolvency, dissolution, or receivership proceedings.
- 6.2. Goods scheduled for shipment within 30 days cannot be rescheduled. Goods scheduled for shipment between 30 and 60 days may be rescheduled with SBC AG's prior written consent and if, rescheduled beyond 60 days that quantity may not be further rescheduled.

7. Technical documents

- 7.1. All technical documents remain the intellectual property of SBC AG and may not be copied or reproduced or communicated in any way to any third party, nor be used for the construction of the product or parts thereof.
- 7.2. Details in technical documents contain no assurances of attributes. Dimension drawings, wiring diagrams, illustrations and indications of weight in price lists and printed matter are not binding. Binding information may be provided upon special request.

8. Regulations at place of destination

The purchaser shall inform SBC AG in due time of all legal, governmental and other regulations at the country of destination that are to be respected in connection with the performance of the contract.

9. Title, benefit and risk, transport, insurance

- 9.1. Goods delivered remain the property of SBC AG until the purchaser has settled all receivables to which SBC AG is entitled from the purchaser.
- 9.2. The benefit and risk of the products pass to the purchaser when the products leave the works, irrespective of whether delivery is made free, under similar terms or including erection. If despatch is delayed for reasons beyond the control of SBC AG, the products shall be stored at the purchaser's expense and risk.
- 9.3. Transport shall take place at the purchaser's expense and risk.
- 9.4. The purchaser is responsible for insuring the products against risks of any kind. Even if insurance is to be arranged by SBC AG, it counts as concluded on the purchaser's behalf.

10. Inspection of delivery, complaints

Purchaser must inspect all goods upon delivery without undue delay and has to report open defects, transport damages, failures in identity and shortages without undue delay, in no event later than 5 days after delivery. Hidden defects need to be reported without undue delay, in no event later than 5 days after detection in writing to SBC AG and within the warranty period, otherwise all goods will be deemed delivered and accepted, unless SBC AG has maliciously concealed the defect.

11. Guarantee

- 11.1. For a period of twenty four (24) months from the date code of the goods., (except where otherwise clearly indicated) SBC AG undertakes to repair or replace at its own discretion and as quickly as possible any parts that, as a demonstrable result of poor material, faulty construction or deficient workmanship, become defective or unserviceable. The guarantee period for replacement goods or repairs expires six (6) months after their provision, but no earlier than the expiry of the guarantee period for the original goods or service.
- 11.2. The purchaser is entitled to demand the cancellation of the contract or reduction of the contract price if
 - repair or replacement is impossible,
 - SBC AG does not succeed in repairing or replacing goods within a reasonable time,
 - SBC AG refuses or culpably delays repair or replacement.
- 11.3. Deficiencies are excluded from the guarantee if they arise from normal wear, incorrect storage or maintenance, failure to follow assembly or operating instructions, excessive demands, unsuitable means of operation, improper interventions by the purchaser or third parties, failure to use original parts, or if such deficiencies are due to other causes beyond the control of SBC AG.
- 11.4. Any further claim by the purchaser regarding deficient goods, services or advice, in particular for damages and cancellation of the contract, is excluded.
- 11.5. SBC AG may, without notice to purchaser, incorporate changes to goods that do not alter form, fit, or function and are reasonably acceptable to Purchaser

12. Infringement indemnification

- 12.1. SBC AG agrees to (i) defend or settle any claim, suit, or proceeding brought against purchaser based solely upon a claim that any goods manufactured and provided solely by SBC AG hereunder directly infringe any third party Swiss patent, Swiss copyright, or protected maskwork according to the Swiss Topography Act, and (ii) to pay costs and damages finally awarded to the third party, provided that: (A) SBC AG is notified promptly in writing of such claim, (B) SBC AG is provided sole control of such defence or settlement using counsel of SBC AG's choice, and (C) purchaser provides SBC AG with all available information and assistance. Because SBC AG has exclusive control over resolving infringement claims hereunder, in no event will SBC AG be liable for purchaser's attorneys' fees, if any.
- 12.2. SBC AG shall not be responsible for any settlement or compromise of any such third party claim made without SBC AG's written consent. SBC AG has no obligation and this Section 12 will not apply to any claim of infringement of any intellectual property right of a third party (i) by goods not in SBC AG's catalogue or goods developed pursuant to purchaser's direction, design, process, or specification, (ii) by the combination of any goods with other elements if such infringement could have been avoided but for such combination, (iii) by goods that have been modified if such infringement would have been avoided by the unmodified goods, (iv) by goods not used for their ordinary purpose, or (v) by software if such software is other than the latest version of the software released by SBC AG and provided to purchaser. Purchaser agrees to defend, indemnify, and hold harmless SBC AG from and against any claims, suits, or proceedings whatsoever arising from such exclusions identified in this Section 12(b), unless this is not caused by purchaser's failure.
- 12.3. At any time after a claim has been made or SBC AG believes is likely to be made, or a court of competent jurisdiction enters an injunction from which no appeal can be taken, SBC AG has at its

option the discretion to (i) procure for purchaser the right to continue using such goods, or to (ii) replace or modify such goods in a way that it does not further infringe any third party intellectual property rights and without affecting the functionality of said goods. If such claim proves to be justified or such injunction becomes permanent and SBC AG fails to procure the rights pursuant to (i) or to replace/modify the goods pursuant to (ii) within a reasonable time limit to be set by purchaser, SBC AG shall accept the return of such goods and refund the purchase price less 20% annual depreciation from shipment date. The foregoing states purchaser's exclusive remedy for any actual or alleged infringement of intellectual property rights. Purchaser is only entitled to claim damages subject to section 14.

13. Software

Software, if listed on the face hereof or installed on a good listed on the face hereof, is governed by the following terms unless a software license agreement is included with such software. Subject to purchaser's compliance with these terms and conditions, SBC AG grants a personal, limited, nonexclusive license to use the object code of the software solely for purchaser's internal purposes. The license is limited to such kind of goods as are specified on purchaser's purchase order for which this instrument serves as either a quotation or acknowledgment. No other use is permitted. SBC AG retains for itself (or, if applicable, its suppliers) all title and ownership to any software delivered hereunder, all of which contains confidential and proprietary information and which ownership includes, without limitation, all rights in patents, copyrights, trademarks, and trade secrets. Purchaser shall not attempt any transfer without prior written consent of SBC AG, sublicense, or redistribution of the software except as expressly permitted herein. Purchaser is only entitled to copy the software in as far as necessary for the contractual purpose. Purchaser is entitled to make back-up copies in as far as necessary. Furthermore, purchaser shall not disclose, distribute, or display any such software, or otherwise make it available to others (except as SBC AG authorizes in writing) or allow any unauthorized use of the software. Purchaser is only entitled to reverse compile the software within the scope of Art. 21 Copyright Act. Purchaser is only entitled to modify, upgrade or alter the software in any other way within the scope of Art. 21 Copyright Act. SBC AG may terminate this license if purchaser breaches fundamental provisions under these terms and conditions

14. Limitation of liability

- 14.1. SBC AG is liable for intent on its part, on the part of its legal representatives and vicarious agents. If SBC AG has not acted intentionally, SBC AG's liability is restricted to typical, foreseeable damages; indirect and consequential damages are excluded; and SBC AG's liability shall in no case exceed the contract price of the specific goods that give rise to the claim.
- 14.2. SBC AG shall also be liable for the intentional infringement of such duties, the fulfilment of which warranted the execution of the agreement in the first place and the observance of which the Purchaser is and can be sure of on SBC AG's part, the part of its legal representatives or vicarious agents. If SBC AG has not acted intentionally, SBC AG's liability is restricted to typical, foreseeable damage; indirect and consequential damages are excluded; and SBC AG's liability shall in no case exceed the contract price of the specific goods that give rise to the claim.
- 14.3. SBC AG shall also be liable in the event of intentional injury to life, body and health caused by SBC AG, its legal representatives or vicarious agents and in the event of wilful failure to disclose a defect.
- 14.4. Where a written guarantee is provided by SBC AG, then the extent of SBC AG's liability is to be determined pursuant to the guarantee declaration. In case the latter does not determine the extent of SBC AG's liability, this section 14 applies.
- 14.5. Additionally SBC AG shall be liable in cases of mandatory statutory liability, for example pursuant to the Federal Act on Product Liability.
- 14.6. Other than stated herein any liability of SBC AG is excluded, regardless of the theory of liability, whether based in contract, tort, indemnity or otherwise

14.7. The purchaser shall notify and consult with SBC AG without undue delay and comprehensively if he intends to take legal recourse in accordance with the afore-mentioned provision. The purchaser has to allow SBC AG to investigate and examine the damages.

15. Recommendations.

Any recommendations or assistance provided by SBC AG concerning the use, design, application, or operation of the goods shall not be construed as representations or warranties of any kind, express or implied, and such information is accepted by purchaser at purchaser's own risk and without any obligation or liability to SBC AG. It is the purchaser's sole responsibility to determine the suitability of the goods for use in the purchaser's application(s). The failure by SBC AG to make recommendations or provide assistance shall not give rise to any liability to SBC AG.

16. Laws

16.1. Purchaser will comply with all applicable laws, regulations, and ordinances of any governmental authority in any country having proper jurisdiction, including, without limitation, those laws of the United States or other countries that regulate the import or export of the goods provided by SBC AG and shall obtain all necessary import/export licenses in connection with any subsequent import, export, re-export, transfer, and use of all goods, technology, and software purchased, licensed, and received from SBC AG. Unless otherwise mutually agreed in writing, purchaser agrees that it will not use the goods in connection with any activity involving nuclear fission or fusion, any use or handling of any nuclear material, or any nuclear, chemical, or biological weapons.

16.2. Goods and services delivered by SBC AG hereunder will be produced and supplied in compliance with all applicable Swiss laws and regulations. Purchaser confirms that it will ensure that all goods are properly installed and used in accordance with the applicable safety at work laws and regulations, and purchaser will indemnify SBC AG in respect of any costs, claims, actions or liability arising out of these laws and regulations, or otherwise arising out of the use by purchaser or others of the goods, unless this is not caused by purchaser's failure.

17. WEEE

17.1. Prices do not include the costs of recycling goods covered by the European WEEE Directive 2002/96/EC or any similar statutory rule as applicable in other jurisdictions and such or similar costs may be added to the prices quoted.

17.2. Unless a charge has been made therefore under section 17 (a) above, if the provisions of the WEEE Directive 2002/96/EC as implemented in any local jurisdiction or any similar statutory rule as applicable in other jurisdictions apply to goods, the financing and organization of the disposal of the waste electrical and electronic equipment are the responsibility of the purchaser who herewith accepts this responsibility, and purchaser will indemnify SBC AG in respect of all such liabilities. The purchaser will handle the collection, processing and recycling of the goods in accordance with all applicable laws and regulations, and shall pass on this obligation to the final user of the goods. Failure by the purchaser to comply with these obligations may lead to the application of criminal sanctions in accordance with local laws and regulations.

18. Indemnification

Purchaser shall indemnify SBC AG for all costs and damages, including attorneys' fees, suffered by SBC AG as a result of purchaser's culpable actual or threatened breach of these terms and conditions.

19. Miscellaneous

19.1. The parties may exchange confidential information during the performance or fulfillment of any purchase order. All confidential information shall remain the property of the disclosing party and shall be kept confidential permanently by the receiving party for a period of 10 years following the date of disclosure. These obligations shall not apply to information which is: (a) publicly known at

the time of disclosure or becomes publicly known through no fault of recipient, (b) known to recipient at the time of disclosure through no wrongful act of recipient, (c) received by recipient from a third party without restrictions similar to those in this section, or (d) independently developed by recipient. Each party shall retain ownership of its confidential information, including without limitation all rights in patents, copyrights, trademarks and trade secrets. A recipient of confidential information may not disclose such confidential information without the prior written consent of the disclosing party, provided that SBC AG may disclose confidential information to its affiliated companies, employees, officers, consultants, agents, and contractors.

- 19.2. These terms and conditions (including those stated on the face hereof) constitute the entire agreement of SBC AG and purchaser, superseding all prior agreements or understandings, written or oral, and cannot be amended except by a mutually executed writing.
- 19.3. Purchaser may not assign any rights or duties hereunder without SBC AG's written prior consent. SBC AG may subcontract its obligations hereunder without purchaser's consent.
- 19.4. No representation, warranty, course of dealing, or trade usage not contained or expressly set forth herein will be binding on SBC AG
- 19.5. Headings and captions are for convenience of reference only and do not alter the meaning or interpretation of these terms and conditions.
- 19.6. No failure by SBC AG to enforce at any time for any period the provisions hereof shall be construed as a waiver of such provision or of the right of SBC AG to enforce thereafter each and every provision.
- 19.7. In the event any provision herein is determined to be illegal, invalid, or unenforceable, the validity and enforceability of the remaining provisions shall not be affected and, in lieu of such provision, a provision as similar in terms as may be legal, valid, and enforceable shall be added hereto.
- 19.8. Provisions herein which by their very nature are intended to survive termination, cancellation, or completion of purchaser's order after acceptance by SBC AG shall survive such termination, cancellation, or completion.
- 19.9. All stenographic and clerical errors are subject to correction.
- 19.10. These terms and conditions shall confer no benefit on any third party.

20. Place of fulfilment and jurisdiction, Applicable Law

- 20.1. The place of contractual fulfilment for both parties is Murten. The courts of Murten shall have exclusive jurisdiction. SBC AG is also entitled to call on any other competent court of law.
- 20.2. The contract and the present General Terms of Delivery are governed by Swiss Law under the exclusion of the UN Convention on International Sales of Goods (CISG).

21. Language

The English language version of these terms and conditions will prevail in case of conflict with the German translation provided for convenience purposes only.

Version of May 2013