

ACUTRONIC General Terms and Conditions of Sale

1. DEFINITIONS

In these conditions the following titles shall have the following meanings ascribed to them:

Name	Description
ACUTRONIC	ACUTRONIC Switzerland Limited
ARO	After Receipt of Order
CAT	Customer Acceptance Test
Commodities	AC-1120 series and associated equipment, 105-AVT, and standard products
Contract	The written agreement between the parties concerning supply of the product and all appendices, including agreed amendments and additions to the said documents
CDR	Critical Design Review
EDC	Effective Date of Contract
End User	The person, company or government who will use the product(s)
FAT	Factory Acceptance Test
PDR	Preliminary Design Review
Purchaser	The person or company to whom the quotation is addressed and with which the contract is concluded
Product(s)	All equipment, material, and services to be supplied by ACUTRONIC in accordance with the quotation. Product(s) can be customized or commodities equipment
Quotation	ACUTRONIC's quote and all documents attached or referenced therein together with these General Terms and Conditions of Sale

2. GENERAL

- 2.1 The contract shall be deemed to have been entered into upon receipt of ACUTRONIC's written acknowledgement stating its acceptance of the order and granting of the export license as per Clause 4, if applicable. Quotations that do not stipulate an acceptance period shall not be binding.
- 2.2 These General T & Cs shall be binding if declared applicable in the quotation or order acknowledgement. Any conditions stipulated by the purchaser that are in contradiction to these General T & Cs shall only be valid if expressly accepted by ACUTRONIC in writing.
- 2.3 All agreements and legally relevant declarations of the parties to the contract must be in writing in order to be valid. Declarations in text form that are transmitted by or recorded on electronic media will be equated with written declarations when specifically so agreed by the parties.
- 2.4 Should a provision of these General T & Cs prove to be wholly or partly invalid, the parties to the contract shall jointly seek an arrangement having a legal and economic effect that will be as similar as possible to the invalid provision. The other provisions shall not be affected.

3. SCOPE OF SUPPLIES AND SERVICES

- 3.1 The supplies and services are exhaustively specified in the order acknowledgement and appendices thereto. ACUTRONIC shall be entitled to make any changes that lead to improvements, provided such changes do not result in a price increase.

4. EXPORT LICENSE

- 4.1 Motion simulators and certain parts thereof and re-instrumentations of existing motion simulators require export permission from the Swiss government (the State Secretariat for Economic Affairs, SECO). The purchaser will support ACUTRONIC in obtaining the export license through the submission of the required import documents. The documents required are:
- Completed and duly signed Statement of End-Use
 - Description of the work done at the installation site
 - List of components recently received from foreign sources
 - Company organization structure with website or company brochure
- 4.2 If the competent authority of Swiss government denies to grant an export license, the contract shall be deemed as null and void. Under no circumstances shall the purchaser have the right to claim any damages and/or losses due to the non-performance or delayed performance of the contract caused by procedures or decisions based on regulations of export controls or international sanctions and embargoes.
- 4.3 It is noted by the purchaser that the Swiss government is entitled to withdraw any export license already granted due to unforeseen circumstances. In this case, the contract will be terminated and ACUTRONIC cannot be held responsible. However, ACUTRONIC has a right to be fully compensated and indemnified by the purchaser for any labour already performed and any material already used or procured.

5. DESIGN

- 5.1 **Design Reviews**
The purchaser will be invited to agree on the final mechanical and electrical user interfaces of the product by signing a PDR and/or CDR document. The documents are to be signed by the purchaser within the time declared in the status report (typically one week after submitting the documents to the purchaser). In case of delay by the purchaser, ACUTRONIC reserves the right to change the delivery time of the product accordingly.
- 5.2 **Design Changes**
In case the purchaser makes any changes to the design of the product before or during PDR and/or CDR, ACUTRONIC reserves the right to adjust the delivery time and product price accordingly.
- 5.3 **Final Specification Agreement**
As soon as the PDR and/or CDR documents have been accepted and signed by the purchaser and reviewed and accepted by ACUTRONIC,

they will become binding and replace all previous technical specifications. Any customer requested design change post CDR acceptance shall be subject to a Contractual Change Order and a revised cost and delivery schedule.

6. CHANGE ORDER

- 6.1 Additional costs and delays may arise through changing the scope of supply after the Effective Date of Contract. Changes may be changes to the agreed specifications, additional parts and/or design changes. Such changes requested by the purchaser, which are not covered by the contract, shall invoke a Change Order.
- 6.2 In the event of a request for a Change Order ACUTRONIC has the right to delay or put the project on hold to seek clarification. When agreement has been reached with the purchaser ACUTRONIC will advise the purchaser of the new delivery date.
- 6.3 In the event of an agreed Change Order, ACUTRONIC will start an internal process to calculate the additional costs and provide a techno commercial offer to the purchaser. A revised project delivery schedule will be transmitted with the Change Order.
- 6.4 ACUTRONIC will only proceed with the project on receipt of the official Purchase Order from the purchaser.
- 6.5 Contractual penalties shall be void until the Change Order and the project schedule has been modified and agreed.

7. TECHNICAL DOCUMENTS

- 7.1 Unless otherwise agreed upon, brochures, catalogues, and data sheets are not binding. Data provided for in technical documents are only binding in so far as having been expressly stipulated as such in writing.
- 7.2 Each party to the contract retains all rights to technical documents provided to the other. The party receiving such documents recognizes these rights and shall—without previous written consent of the other party—not make these documents available to any third party, either in whole or in part, nor use them for purposes other than those for which they were handed over.

8. REGULATIONS AND SAFETY DEVICES

- 8.1 The purchaser shall, during techno-commercial negotiations and, at the latest, prior to placing the order, draw the attention of ACUTRONIC to the standards and regulations applicable to the operation of the plant and health and safety of personnel.
- 8.2 Unless otherwise agreed upon, the supplies and services shall comply with those standards and regulations at the place of business of the purchaser and/or end user about which ACUTRONIC has been informed under Clause 7.1. Additional or other safety devices shall be supplied to the extent as having been expressly agreed upon.

9. PRICES AND SHIPMENT

- 9.1 Unless otherwise agreed upon, all prices shall be deemed to be net FCA Bubikon or Olten (Incoterms 2010), including packing, in Swiss Francs without any deduction whatsoever.
- 9.2 The purchaser shall pick up the goods within two (2) weeks after ACUTRONIC's notification to the purchaser that the products are available for dispatch.
- 9.2.1 ACUTRONIC reserves the right to charge additional storage costs in case the purchaser does not pick up the goods within the period stipulated in Clause 8.2
- 9.3 Any and all additional charges, such as, but not limited to, freight charges, insurance premiums, fees for export, transit, import and other permits, and certifications, shall be borne by the purchaser. Likewise, the purchaser shall bear any and all taxes, fees, levies, customs duties, and the like which are levied out of or in connection with the contract or shall refund them to ACUTRONIC against adequate evidence in case ACUTRONIC has advanced this sum.

10. TERMS OF PAYMENT

- 10.1 Payments shall be made by the purchaser at ACUTRONIC's domicile according to the agreed terms of payment, without any deduction for cash discount, expenses, taxes, levies, fees, duties, and the like.
- 10.2 Should the purchaser insist on or require an advance payment bond, all charges occurring in Switzerland will be borne by ACUTRONIC. All charges outside of Switzerland shall be borne by the purchaser. This is not valid for Swiss customers.
- 10.3 If ACUTRONIC requires a letter of credit, all charges occurring in Switzerland will be borne by ACUTRONIC. All charges outside of Switzerland shall be borne by the purchaser. This is not valid for Swiss customers.
- 10.4 Unless otherwise agreed upon, the purchase price shall be paid in the following instalments:
- 20% at EDC
 - 10% at CDR (in case of missing CDR, 30% at EDC)
 - 60% at FAT before shipment
 - 10% after CAT
- 10.5 Payments for FAT and CAT shall be secured by a Letter of Credit issued at CDR date at the latest and valid for 30 days after planned CAT. All costs shall be borne by the purchaser. In contracts where the FAT payment is not secured by a Letter of Credit, the goods will not be shipped until the FAT-payment is received on our account. Delay in shipment due to late payment may cause project delays in which case clause 10.11 will apply.
- 10.6 If FAT or CAT is delayed for more than 2 months due to customers' action or inaction, ACUTRONIC reserves the right to issue the invoice for FAT or CAT payment 2 months after the scheduled payment date. The outstanding amount shall be paid without completion of FAT or CAT.
- 10.7 Unless otherwise agreed upon, payment shall be made within 30 days after the date of invoice.

- 10.8 For commodities, the following payment terms shall be applicable:
- 100 % at time of order, within 30 days net after the date of invoice. Shipment will be done after receipt of payment.
- 10.9 The dates of payment shall also be observed if transport, delivery, installation, commissioning, or taking over of the supplies or services is delayed or prevented due to reasons beyond ACUTRONIC's control. Dates of payment shall also be observed if unimportant parts are missing or post-delivery work is to be carried out but the supplies can still be used.
- 10.10 If the advance payment or contractually agreed securities are not provided in accordance with the terms of the contract, ACUTRONIC shall be entitled to adhere to or terminate the contract and shall, in both cases, be entitled to claim damages.
- 10.11 If the purchaser, for any reason whatsoever, is in delay with a further payment or if ACUTRONIC is seriously concerned that it will not receive payments in total or in due time because of circumstances having taken place since entering into the contract, ACUTRONIC, without being limited in its rights provided for by law, shall be entitled to refuse the further performance of the contract and retain the supplies ready for dispatch until new terms of payment and delivery will have been agreed and ACUTRONIC will have received satisfactory securities. In these cases, ACUTRONIC reserves the right to fix and to confirm new delivery time. If such an agreement cannot be reached within a reasonable time or ACUTRONIC does not receive adequate securities, ACUTRONIC shall be entitled to terminate the contract and claim damages.
- 10.12 If the purchaser delays in the agreed terms of payment, he shall be liable, without reminder, for interest with effect from the agreed date on which the payment was due at a rate depending on the terms prevailing at the purchaser's domicile, but not less than 4 percent over the current 3-month CHF-LIBOR target. The right to claim further damages is reserved.
- 11. DELIVERY TIME**
- 11.1 The delivery time shall start at EDC. EDC is defined as follows:
- signed contract,
 - receipt of the export license and
 - receipt of advance payment if applicable
- 11.2 In case of delay by the purchaser in providing the required documents or Swiss government in submitting the export license, ACUTRONIC reserves the right to change the delivery time of the product(s) accordingly. In case of FCA Bubikon or Olten (Incoterms 2010), the delivery time shall be deemed to be observed if by that time ACUTRONIC has sent a notice to the purchaser informing that the supplies are ready for dispatch. Compliance with the delivery time is conditional upon purchaser's fulfilling of its contractual obligations.
- 11.3 The delivery time is reasonably extended if:
- The information required by ACUTRONIC for performance of the contract is not received in time or the purchaser subsequently changes it thereby causing a delay in the delivery of the supplies or services;
 - The purchaser or a purchaser contractor is behind schedule with the work it has to execute or with performance of its contractual obligations, in particular if the purchaser fails to observe the terms of payment;
 - Exchange of product relevant documents such as PDR/CDR is delayed by the purchaser.
- 11.4 Any delay of the supplies or services does not entitle the purchaser to any rights and claims other than those expressly stipulated in this Clause 10. This limitation does, however, not apply to unlawful intent or gross negligence on the part of ACUTRONIC, but does apply to unlawful intent or gross negligence of persons employed or appointed by ACUTRONIC to perform any of its obligations.
- 11.5 In case a specific date instead of a delivery period is fixed, such date shall correspond to the last day of a delivery period; clauses 10.1 to 10.4 apply by analogy.
- 11.6 In case of late delivery, no indemnifications for damages and no penalties shall apply unless specifically agreed.
- 12. PASSING OF BENEFIT AND RISK**
- 12.1 The benefit and risk of the supplies shall be defined by the separately agreed Incoterm Clause or – if not separately agreed – the Incoterm Clause defined by these General T & Cs as in clause 8.1.
- 12.2 If dispatch is delayed at the request of the purchaser or due to reasons beyond ACUTRONIC's control, the risk of the supplies shall pass to the purchaser at the time originally foreseen for their leaving the works. From this moment on, the supplies shall be stored and insured on the account and at the risk of the purchaser.
- 13. INTELLECTUAL PROPERTY RIGHTS**
- 13.1 Unless otherwise specified elsewhere in the quotation and subject to the rights of third parties, all intellectual property rights of whatever sort in the product(s) are vested in and remain with ACUTRONIC.
- 14. PATENT INDEMNITY**
- 14.1 In respect to the infringement of letters patent or any other intellectual property rights relating to any part of the product(s), ACUTRONIC's liability shall be limited to product(s) of ACUTRONIC design and relate solely to infringement of Swiss national patents. In the event of such infringement, ACUTRONIC's obligations shall be limited to (at ACUTRONIC's option) either replacing the infringing item by a non-infringing item or securing at its own cost a license permitting use of said item by the purchaser (or end user, as applicable) without infringement, or paying a sum of money to the purchaser in compensation for loss of use. Such compensation is limited to the contract price of the said item.
- 14.2 ACUTRONIC shall, as far as it legally may, allow the purchaser the benefit of any reliefs or indemnities received from the supplier of any infringing item not of ACUTRONIC's design. It shall be ACUTRONIC's choice to claim such a relief or indemnification from the supplier of an infringing item.
- 14.3 No liability shall be accepted by ACUTRONIC in respect of infringements arising by a combination of the product(s) with any other items or from their use for a purpose not specified or disclosed to ACUTRONIC.
- 14.4 This indemnity is conditional upon ACUTRONIC receiving the earliest possible notice from the purchaser of any claim being made or any actions threatened or brought against the purchaser and purchaser permitting ACUTRONIC to conduct any litigation that might ensue, including all negotiations for the settlement of the claim.
- 14.5 The purchaser guarantees that any design or instruction provided for by him does not infringe any patent or any other intellectual property right of third parties if used by ACUTRONIC. If the use by ACUTRONIC nevertheless results in a claim for infringement of any intellectual property right, the purchaser shall indemnify, defend and hold ACUTRONIC harmless from any claims based on an infringement of any intellectual property right of third parties
- 15. FORWARDING, TRANSPORT, AND INSURANCE**
- 15.1 ACUTRONIC shall be notified at time of EDC at the latest of special requirements regarding forwarding, transport, and insurance.
- 15.2 The purchaser shall check the goods immediately upon arrival. Any damages to the outer packing must be submitted to the last carrier immediately after receipt of goods.
- 16. FACTORY ACCEPTANCE TEST (FAT), INSTALLATION, CUSTOMER ACCEPTANCE TEST (CAT), AND TRAINING**
- 16.1 FAT will be conducted at ACUTRONIC's premises to verify that the product(s) fulfill the specifications as stated in the CDR. The purchaser will be provided with the FAT report, which gives the complete results of these tests. The purchaser's and/or end user's representatives are welcome to witness these tests. FAT will be completed in a pre-agreed period defined by ACUTRONIC. Certain mechanical tests that can only be performed in-process during assembly will not be repeated during FAT. FAT will be based only on the tests specified in the test procedure agreed during CDR with standard test procedures defined by ACUTRONIC.
- 16.2 The purchaser shall inspect the supplies during FAT at which time any deficiencies will be noted. Having been notified of deficiencies, ACUTRONIC shall remedy them as soon as possible, and the purchaser shall give ACUTRONIC the possibility of doing so. After the remedy of such deficiencies, ACUTRONIC will send proof of the remedy to the purchaser. Shipment will commence after approval.
- 16.3 If part of the quotation, the installation of a new system will be conducted by ACUTRONIC personnel or a designated representative at the end user's facility.
- 16.4 CAT will be conducted at the end user's facility to verify that the product(s) fulfill the specifications as stated in the CDR. The purchaser and/or end user has to facilitate the installation and CAT for ACUTRONIC personnel by giving access to the location. CAT will be based only upon the tests specified in the test procedure agreed between ACUTRONIC and the purchaser. The purchaser will be provided with the CAT documents, which give the complete details of the tests. The users will be instructed in the general operation of the system, concurrent with the CAT.
- 16.5 CAT shall also be deemed completed:
- if CAT cannot be carried out on the date provided for due to reasons beyond ACUTRONIC's control;
 - if the purchaser refuses the acceptance although the system fulfills the specifications according to the CDR;
 - as soon as the purchaser uses the supplies or services
- 16.6 For commodities, FAT, installation, CAT, and training are not included. IHT (In-house Test Results) are delivered with the product's documentation.
- 16.7 For commodities, installation is the responsibility of the end user.
- 17. SYSTEM DOCUMENTATION**
- 17.1 ACUTRONIC will provide standard system documentation in English.
- 17.2 ACUTRONIC will provide commodity system documentation in English
- 18. WARRANTY FOR PRODUCTS**
- 18.1 ACUTRONIC warrants that the product(s) are free of defects and fit for their described function.
- 18.2 Where the product(s) comprise a complete motion simulator system or a refurbishment of a motion simulator system the warranty period is one (1) year and begins at the date of;
- completion of CAT or
 - three (3) months after delivery, whichever is the earliest
- If dispatch, CAT, or installation is delayed due to reasons beyond ACUTRONIC's control, the warranty period shall end not later than 18 months after ACUTRONIC's notification that the supplies were available for dispatch.
- For spare parts, the warranty period is one (1) year and begins with the date of shipment of the product(s).
- For repair work, the warranty period for the repair is one (1) year and begins with the date of completion.
- 18.3 Observed deficiencies must be transmitted to ACUTRONIC within 10 days of discovery. Verbal notice must be confirmed in writing within three days. Warranty claims are accepted within the warranty period only.
- 18.4 In order to carry out a warranty claim, the purchaser and/or end user must allow ACUTRONIC employees or the representative reasonable access to the product.
- The purchaser and/or end user must provide support to ACUTRONIC or the representative on site as would be reasonably expected, e.g., the handling equipment and tools needed to perform under-warranty repair if necessary.
- Work under warranty does not extend the warranty period nor call for a new warranty for the entire product. If delivered with the product, the warranty for spares and replacement parts expires with the warranty period of the entire product. In case of a defect, the warranty expires prematurely if the purchaser or a third party undertakes inappropriate modifications or repairs or if the purchaser does not immediately take all appropriate steps to mitigate the damage and give ACUTRONIC the possibility of remedying such defect.
- 18.5 Defective parts are either replaced or repaired before the expiry of the warranty period upon ACUTRONIC's sole decision. Proven defects in material and workmanship will be corrected. The warranty does not cover any subsequent damages. Replaced parts shall become ACUTRONIC's property if not renounced explicitly.
- 18.6 ACUTRONIC shall bear the costs of remedying the defective parts in its works. If the repair cannot be carried out in ACUTRONIC's works, the purchaser shall bear the related costs to the extent exceeding the customary costs of transport, personnel, traveling, living, dismantling, and reassembling the defective parts.
- 18.7 *Exclusions from the liability for defects*
Excluded from ACUTRONIC's warranty and liability for defects are all deficiencies that cannot be proved to have their origin in bad material, faulty design, or poor workmanship, e.g., those resulting from normal wear, improper maintenance, failure to observe the operating instructions,

- misuse, excessive loading, use of unsuitable material, influence of chemical or electrolytic action, operation or storage outside of recommended environmental limits, building or installation work not undertaken by ACUTRONIC, or resulting from other reasons beyond ACUTRONIC's control.
- 18.8 **Limitation of warranty**
A warranty obligation does not exist for deficiencies with minor impact on the value and function of the product. The warranty is void when repair or manipulation occurs on the product(s) by persons not specifically authorized by ACUTRONIC.
The purchaser and/or the end user is responsible that only instructed personnel handle the product. ACUTRONIC cannot be held liable for any uninstructed personnel handling the product.
Should ACUTRONIC's service engineers notice that the product was not handled correctly during routine maintenance, any costs resulting thereof will be charged to the purchaser and/or end user.
Damages outside the responsibility of ACUTRONIC are excluded from any warranty claim.
With respect to any defective material or workmanship, the purchaser and/or end user shall not be entitled to any rights and claims other than those expressly stipulated in this Clause 18.
The supply of consumable goods and normal wear and tear of the product(s) are excluded from any warranty obligation. The warranty is voided by the omission of the recommended service and maintenance work as specified in the manual. It is the end user's responsibility to document any service and maintenance work done on the product.
The warranty period of life-limited or wear parts, such as slip rings and rotary joints (non-exhaustive enumeration), ends with the warranty period of the entire product or when reaching the life limit of such parts, whichever comes first.
The warranty of spare parts is limited to the replaced parts.
The warranty of repair work is limited to the scope of work done by ACUTRONIC and the replaced parts.
- 18.9 **Supplies and services of subcontractors**
For required supplies and services provided by subcontractors requested by the purchaser and/or end user, the purchaser assumes warranty and liability for defects caused by such subcontractors' warranty and liability obligations.
- 18.10 **Exclusivity of warranty claims**
With respect to any defective material, design, or workmanship, the purchaser shall not be entitled to any rights and claims other than those expressly stipulated in Clauses 18.1 to 18.5.
- 19. WARRANTY FOR COMMODITIES**
- 19.1 ACUTRONIC warrants that commodities are free of defects and fit for their described function. The warranty period is one (1) year and begins at the date of delivery. ACUTRONIC corrects proven defects in material and workmanship. Defect parts are either replaced or repaired upon the sole decision by ACUTRONIC. The warranty agreement does not cover any subsequent damages. Work under warranty does not extend the warranty period nor call for a new warranty. The warranty for spares and replacement parts expires with the warranty period of the entire commodity
- 19.2 **Limitations**
A warranty obligation does not exist for not specified deficiencies with minor impact on the value and function of the commodity. The warranty is void when repair or manipulation occurs on the commodity by persons not specifically authorized by ACUTRONIC. Excluded from any warranty claim are damages due to misuse of the commodity, due to the attachment of accessories, or the mounting of payloads not compatible with the commodity. Damages outside the responsibility of ACUTRONIC are excluded from any warranty claim. The supply of consumable goods and normal wear are not part of this warranty agreement. The warranty is voided by omission of the recommended service and maintenance work as specified in the manual.
- 19.3 **Notice**
Observed deficiencies must be transmitted to ACUTRONIC without delay. Verbal notice must be confirmed in writing within three days. Warranty claims are accepted within the warranty period only. In case of deficiencies that cannot be solved with phone support, the system (excluding temperature chamber) must be returned to ACUTRONIC for analysis and repair.
- 19.4 Deficiencies of the thermal chamber will be corrected by local agencies of the manufacturer under the responsibility of ACUTRONIC. It is strongly recommended to set up a maintenance contract with the local agency at the end of the warranty period
- 20. SPARE PARTS**
- 20.1 ACUTRONIC maintains a supply of spare parts to support its product(s) throughout their warranty period. However, due to obsolescence of components and product improvement, ACUTRONIC does not warrant availability of spare parts unless formally agreed in writing.
- 20.2 Customized parts such as slip-ring, motors, or amplifiers can have a lead time of several months, and ACUTRONIC therefore recommends that the customer purchases a set of spares to hold on stock in the event of wear or failure. If ordered with the motion system, the spare parts will be inspected and functionally tested prior to delivery. Configuration and interchangeability will be verified.
- 21. TERMINATION OF THE CONTRACT BY ACUTRONIC**
- 21.1 ACUTRONIC shall have the right to terminate the contract in whole or in part if one of the following takes place:
- the purchaser defaults on or commits breach of any of its obligations to ACUTRONIC
 - the purchaser makes or offers to make any arrangement or composition with creditors or commits any act of bankruptcy
 - any petition or receiving order in bankruptcy shall be presented or made against the purchaser
 - the purchaser shall be a company and any resolution or petition to wind up such company's business shall be passed or presented otherwise than for reconstruction or merger
 - a receiver of any such company's undertaking, property, assets, or any part thereof shall be appointed
- A written notice shall be given to the purchaser or delivered to the purchaser's last known address without prejudice to any claim or right that ACUTRONIC may make or exercise.
- 21.2 The contract shall be adapted appropriately if:
- unforeseen events (see Clause 21, Force Majeure) considerably change the economic effect or
 - the content of the supplies/services considerably affect the activities of ACUTRONIC or
 - performance subsequently becomes impossible.
- In so far as such adaptation is economically not justifiable, ACUTRONIC shall be entitled to terminate the contract or the parts affected thereby.
- 21.3 If ACUTRONIC wishes to terminate the contract, it shall – after having recognized the consequences of the event – immediately inform the purchaser; this applies even if an extension of the delivery time has been agreed before. In case of termination of the contract ACUTRONIC shall be entitled to the payment of those parts of the supplies and services that have already been carried out. Claims for damages on the part of the purchaser because of such termination are excluded.
- 22. FORCE MAJEURE**
- 22.1 ACUTRONIC shall not be responsible for any delay or failure of delivery of the product(s) that may arise from causes beyond ACUTRONIC's control such as but not limited to war, fire, flood, strikes, riots or civil commotion, sabotage, epidemics, mobilization, revolution, serious breakdown in the works, accidents, labor conflicts, late or deficient delivery by subcontractors of raw materials, semi-finished or finished product(s), the need to scrap important work pieces, official actions or omissions by any state authorities or public bodies, natural catastrophes, action of any government, or any act or omission of the purchaser or of a third party.
- 22.2 ACUTRONIC undertakes to advise the purchaser at the earliest opportunity if such a situation arises and is likely to affect ACUTRONIC's performance, and ACUTRONIC shall take all reasonable steps to minimize the effects of such delay.
- 23. EXCLUSION OF FURTHER LIABILITY ON ACUTRONIC'S PART**
- 23.1 All cases of breach of contract, the relevant consequences as well as all rights and claims on the part of the purchaser, irrespective on what ground they are based, are exhaustively covered by these General T & Cs. In particular, any claims not expressly mentioned for damages, reduction of price, or termination of or withdrawal from the contract are excluded. In no case whatsoever shall the purchaser be entitled to claim damages other than compensation for costs of remedying defects in the supplies. This in particular refers, but shall not be limited, to loss of production, loss of use, loss of orders, loss of profit, and other direct or indirect or consequential damage. This exclusion of liability, however, does not apply to unlawful intent or gross negligence on the part of ACUTRONIC, but does apply to unlawful intent or gross negligence of persons employed or appointed by ACUTRONIC to perform any of its obligations.
This exclusion of liability does not apply as far as it is contrary to compulsory law.
- 24. RIGHT OF RECOURSE OF ACUTRONIC**
- 24.1 If, through actions or omissions of the purchaser or of persons employed or appointed by it to perform any of its obligations, personal injury, or damage to the property of third parties occurs and if a claim is made against ACUTRONIC, then the latter shall be entitled to take recourse against the purchaser.
- 25. APPLICABLE LAW AND PLACE OF JURISDICTION**
- 25.1 Any legal relations between ACUTRONIC and the purchaser shall be governed solely by Swiss substantive law. Rights accruing to ACUTRONIC on the basis of statutory provisions are not affected by these General T & Cs.
- 25.2 Any disputes arising out of or in connection with the contract, affecting its validity or the validity of these General T & Cs shall be settled by the court(s) having jurisdiction over the place where ACUTRONIC has its registered office, namely Bubikon, Switzerland. However, if ACUTRONIC is plaintiff, it shall also be entitled to sue the purchaser before the court having jurisdiction over the place where the purchaser has his registered office.
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