

## General Sales Conditions

### 1. General

1.1 The contract shall be deemed to have been entered into upon receipt of a supplier's written acknowledgement stating its acceptance of the order. Offers, which do not stipulate an acceptance period, shall not be binding.

1.2 These general conditions of supply shall be binding if declared applicable in the offer or in the order acknowledgement. Any conditions stipulated by the customer, which are in contradiction to these general conditions of supply, shall only be valid by an explicit written acknowledgement by the supplier.

1.3 All agreements and legally relevant declarations of the parties to the contract must be in written form in order to be valid. Declarations in text form which are transmitted by or recorded on electronic media will be equated with written declarations when specifically so agreed by the parties.

1.4 Should a provision of these general conditions of supply prove to be wholly or partly invalid, the parties to the contract shall jointly seek an arrangement having a legal and economic effect which will be as similar as possible to the invalid provision.

### 2. Scope of supplies and services

The supplies and services are exhaustively specified in the order acknowledgement and in appendices thereto. The supplier shall be authorised to make any changes which lead to improvements, provided such changes do not result in a price increase.

### 3. Technical documents

3.1 Unless otherwise agreed upon, brochures and catalogues are not binding. Data provided for in technical documents are only binding in so far as having been explicitly stipulated as such.

3.2 Each party to the contract retains all rights to technical documents provided to the other. The party receiving these documents recognizes those rights and shall - without previous written consent of the other party - not make these documents available to any third party, either on the whole or in part and not use them for purposes other than those for which they were handed over.

### 4. Regulations in force in the country of destination and safety devices

4.1 The customer shall, at the latest when placing the order, draw the attention of the supplier to the standards and regulations applicable to the execution of the supplies and services, to the operation of the plant as well as to the health and safety of the personnel.

4.2 Unless otherwise agreed upon, the supplies and services shall comply with those standards and regulations at the place of business of the customer about which the supplier has been informed under Clause 4.1. Additional or other safety devices shall be supplied to the extent as having been explicitly agreed upon.

### 5. Prices

5.1 Unless otherwise agreed upon, all prices shall be deemed to be net ex-works, excluding packing, in freely available Swiss francs without any deduction whatsoever. Any additional charges, such as, but not limited to, freight charges, insurance premiums, fees for export, transit, import and other permits, as well as for certifications, shall be borne by the customer. Likewise, the customer shall bear any taxes, fees, levies, customs duties and the like, which are levied out of, or in connection with the contract, or shall refund them to the supplier against adequate evidence in case the supplier is liable for them.

5.2 The supplier reserves the right to adjust the prices in case the wage rates or the raw material prices vary between the submission of the tender and the contractually agreed obligations. In such case the adjustment shall be made according to the attached price adjustment clause. In addition, an appropriate price adjustment shall apply:

- in case the delivery time has been subsequently extended due to any reason stated in Clause 8.3;

- or the nature or the scope of the agreed supplies or services has changed;

- or the material or the execution has undergone changes because any documents furnished by the customer were not in conformity with the actual circumstances, or were incomplete.

### 6. Terms of payment

6.1 Payments shall be made by the customer at supplier's registered office according to the agreed terms of payment, without any deduction for cash discount, expenses, taxes, levies, fees, duties, and the like. Unless otherwise agreed upon the price shall be paid in the following instalments,

- One third as advance payment within one month after receipt of the order acknowledgment by the customer,

- One third on expiry of two thirds of the agreed delivery time,

- The remainder within one month after supplier's advice that the supplies are ready for dispatch.

Payment shall be deemed to be effected as far as Swiss francs have been made freely available to the supplier at supplier's registered office. In case payment by bills of exchange is agreed, the customer shall pay the costs of discounting of such bills, bill of exchange taxes and collection charges.

6.2 The dates of payment shall also be observed even if transport, delivery, mounting, commissioning or taking over of the supplies or services is delayed or prevented due to reasons beyond supplier's control, or if unimportant parts are missing, or if post-delivery work is to be carried out without the supplies being prevented from use.

6.3 If the advance payment or the contractually agreed securities are not provided in accordance with the terms of the contract, the supplier shall be entitled to adhere to or terminate the contract, and shall in both cases be entitled to claim damages. If the customer is in delay with a further payment, whatever the reasons may be, or if the supplier 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, the supplier, without prejudice of the rights conferred by the law, shall be entitled to refuse the further performance of the contract and to retain the supplies ready for dispatch until new terms of payment and delivery will have been agreed on and until the supplier will have received satisfactory securities. If such an agreement cannot be reached within a reasonable time, or in case the supplier does not receive adequate securities, the supplier shall be entitled to terminate the contract and to claim damages.

6.4 If the customer delays in the agreed terms of payment, it shall be liable, without reminder, for interest with effect from the date on which the payment was due at a rate depending on the terms prevailing at the customer's registered office, at a rate 4% higher than the current discount rate of the Swiss National Bank, if that rate is higher.

### 7. Reservation of title

The supplier shall remain the owner of all supplies until having received the full payments in accordance with the contract. The customer shall cooperate in any measures necessary for the protection of supplier's title. In particular upon entering into the contract it authorises the supplier to enter or notify the reservation of title in the required form in public registers, books or similar records, all in accordance with relevant national laws, and to fulfil all corresponding formalities, at customer's cost.

During the period of the reservation of title, the customer shall, at its own cost, maintain the supplies and insure them for the benefit of the supplier against theft, breakdown, fire, water and other risks. It shall further take all measures to ensure that the supplier's title is in no way prejudiced.

### 8. Delivery time

8.1 The delivery time shall start as soon as the contract is entered into, all official formalities such as, but not limited to, import, export, transit and payment permits have been completed, payments due with the order have been made, all agreed securities given and the main technical points settled. The delivery time shall be deemed to be observed if by that time the supplier has sent a notice to the customer informing that the supplies are ready for dispatch.

8.2 Compliance with the delivery time is conditional upon the customer fulfilling of its contractual obligations.

8.3 The delivery time is reasonably extended:

a) if the information required by the supplier for performance of the contract is not received in time, or if the customer subsequently changes it thereby causing a delay in the delivery of the supplies or services;

b) if hindrances occur which the supplier cannot prevent despite using the required care, regardless of whether they affect the supplier or the customer or a third party. Such hindrances include, but shall not be limited to, epidemics, mobilisation, war, revolution, significant disruptions in the business operations, accidents, labour conflicts, late or deficient delivery by subcontractors of raw materials, semi-finished or finished products, the need to scrap important work pieces, official actions or omissions by any state authorities or public bodies, natural catastrophes, force majeure;

c) if the customer or a third party is behind schedule with work it has to execute, or with the performance of its contractual obligations, in particular if the customer fails to observe the terms of payment

8.4 In case of a delay, the purchaser does not have the right to charge a penalty.

8.5 In case a specific date instead of a delivery time is fixed, such a date shall correspond to the last day of a delivery time; Clauses 8.1 to 8.4 apply by analogy.

8.6 Any delay of the supplies or services does not entitle the customer to any rights and claims other than those expressly stipulated in this Clause 8. This limitation does, however, not apply to unlawful intent or gross negligence on the part of the supplier, but does apply to unlawful intent or gross negligence of persons employed or appointed by the supplier to perform any of its obligations.

### 9. Packaging

Packaging shall be charged separately by the supplier and shall not be returnable. However, if it is declared as supplier's property, it shall be returned by the customer, carriage paid, to the place of dispatch.

### 10. Passing of benefit and risk

10.1 The benefit and the risk of the supplies shall pass to the customer by the date of their leaving the factory.

10.2 If the shipment is delayed at the request of the customer or due to reasons beyond the supplier's control, the risk of the supplies shall pass to the customer at the time originally foreseen for their leaving the factory. From this moment on, supplies shall be stored and insured on the account and at the risk of the customer.

### 11. Shipping, transport and insurance

11.1 The supplier shall be notified on time of special requirements regarding shipping, transport and insurance. The transport shall be at customer's expense and risk. Immediately upon receipt of the supplies or of the shipping documents, the customer is required to make any objections concerning the shipping or transport to the last carrier.

11.2 The customer shall be responsible for purchasing insurance against risks of any kind.

### 12. Inspection and acceptance of the supplies and services

12.1 In accordance with the customary practice, the supplier shall inspect the supplies and services before the delivery. If the customer requests further testing, this has to be specially agreed upon and paid for by the customer.

12.2 The customer shall inspect the supplies and services within a reasonable period and shall immediately notify the supplier in written form of any deficiencies. If the customer fails in doing so, the supplies and services shall be deemed as having been accepted.

12.3 The customer being obliged to provide the supplier with the possibility, the supplier shall remedy the deficiencies, as communicated in accordance with Clause 12.2, as soon as possible. After remedying the deficiencies, an acceptance of the supplies shall take place at the request of the customer or the supplier, in accordance with Clause 12.4.

12.4 Subject to Clause 12.3 the execution of an acceptance procedure as well as the establishing of the conditions related thereto, require a special agreement. In the absence of such agreement the following shall apply:

- The supplier shall advise the customer on time of the execution of the acceptance procedure so that the customer or a representative can attend.

- An acceptance protocol shall be prepared which shall be signed by the customer and the supplier or by their representatives. Such a protocol shall either state that the acceptance has taken place, or that it has taken place under reservations, or that the customer has refused the acceptance. In the last two cases, the deficiencies shall be listed separately in the protocol. In case of insignificant deficiencies, in particular those which do not substantially hinder the efficient functioning of the supplies or services, the customer shall not be entitled to refuse the acceptance of the supplies or services and the signature of the acceptance protocol. The supplier shall remedy such deficiencies without delay.

- In case of important deviations from the contract or of serious deficiencies, the customer shall give the supplier the possibility of remedying these within a reasonable time. Thereafter a new acceptance procedure shall take place. If during this test important deviations from the contract or serious deficiencies appear again, the customer shall be entitled to claim either a price reduction or an indemnity or other compensations from the supplier, provided this has been agreed on beforehand. If, however, the deviations and deficiencies appearing during such an acceptance are of such importance that they cannot be remedied within a reasonable time and the provided supplies and services cannot be used for their specified purpose, or such use is considerably impaired, then the customer shall be entitled to refuse acceptance of the defective part or, if partial acceptance is economically not justified for it, to terminate the contract. In such a case the supplier can only be held liable to reimburse the sums which have been paid for the parts affected by the termination of the contract.

12.5 The acceptance shall also be deemed completed:

- If the acceptance procedure cannot be carried out on the scheduled date, due to reasons beyond supplier's control;

- If the customer refuses the acceptance without being entitled to do so;

- If the customer refuses to sign the acceptance protocol prepared in accordance with clause 12.4;

- As soon as the customer uses the supplies or services.

12.6 Deficiencies of any kind in the supplies or services shall not entitle the customer to any rights and claims other than those expressly stipulated in Clauses 12.4 and 13 (Warranty, liability for defects) of these General Sales Conditions.

### **13. Warranty, liability for defects**

#### **13.1 Warranty period**

The warranty period is 12 months (one shift operation) or 2000 working hours, depending on which one will be reached first. The warranty period starts as soon as the supplies leave the factory or when the assembly is completed if the supplier also undertakes the assembly or at the eventually agreed upon acceptance of the supplies and services. If the shipment, the finalizing of the assembly or the execution of the acceptance procedure is delayed due to reasons beyond the supplier's control, the warranty period expires no later than 4 months after the supplier notifies the customer that the supplies are ready for shipping.

A new warranty period, with duration of 6 months, is applicable to replaced or repaired parts; this warranty period begins following the replacement or the completion of the repairs or the acceptance and expires at the latest at the expiration of a maximum period equal to twice the warranty period stipulated in the preceding paragraph. The warranty expires prematurely if the customer or a third party undertakes inappropriate modifications or repairs or if the customer, in case of a defect, does not immediately take appropriate steps to mitigate the damage and give the supplier the possibility of remedying such defect.

#### **13.2 Liability for defects in material, design and workmanship**

Upon written request of the customer, the supplier undertakes at its choice to repair or replace as quickly as possible any parts of the supplies which, before the expiry of the warranty period, are proven to be defective due to bad material, faulty design or poor workmanship. Replaced parts shall become supplier's property, if the supplier does not explicitly renounce this. The supplier shall bear the costs of remedying the defective parts in its factory. If the repair cannot be carried out in supplier's factory, the customer shall bear the additional costs of transport, travelling, living, dismantling and reassembly of the defective parts.

#### **13.3 Liability for the agreed quality**

The agreed quality is only that which has been expressly specified as such in the order confirmation or in the specifications. An agreed quality is valid at the latest until the expiration of the warranty period.

If an acceptance procedure has been agreed upon, the agreed quality shall be deemed to have been fulfilled as soon the agreed quality has been proven during said acceptance procedure. If the agreed quality is not or only partially achieved, the customer may require that the supplier carry out the improvements immediately. The customer shall give the supplier the necessary time and possibility of doing so.

If such improvements fail completely or are only partially satisfactory, the customer may claim such compensation as has been agreed on beforehand for such a case, or, if such an agreement has not been made, a reasonable reduction of price. If, however, the defects are of such importance that they cannot be remedied within a reasonable time and the

provided supplies and services cannot be used for their specified purpose, or if such use is considerably impaired, then the customer shall be entitled to refuse acceptance of the defective part or, if partial acceptance is economically not justified for it, to terminate the contract. In such a case the supplier can only be held liable for reimbursing the sums which have been paid to it for the parts affected by the termination.

#### **13.4 Exemptions from the liability for defects**

Excluded from the supplier's warranty and liability for defects are all deficiencies which cannot be proven 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, excessive loading, use of any unsuitable material, influence of chemical or electrolytic action, building or mounting work not undertaken by the supplier, or resulting from other reasons beyond supplier's control.

#### **13.5 Supplies and services of subcontractors**

For supplies and services of subcontractors requested by the customer, the supplier assumes warranty and liability for defects only to the extent of such subcontractors' warranty and liability obligations.

#### **13.6 Exhaustiveness of warranty claims**

With respect to any defective material, design or workmanship as well as to any failure to fulfil the agreed quality, the customer shall not be entitled to any rights and claims other than those explicitly stipulated in Clauses 13.1 to 13.5.

#### **13.7 Liability for accessory obligations**

The supplier is only liable for unlawful intent or gross negligence, in so far as the customer asserts its claims arising out of faulty advice and incorrect data or out of a breach of any other accessory obligations.

### **14. Termination of the contract by the supplier**

14.1 The contract shall be adapted appropriately, if unforeseen events considerably change the economic impact or the content of the supplies or services or considerably impact the activities of the supplier, or if execution subsequently becomes impossible. Insofar as such adaptation is economically not justifiable, the supplier shall be entitled to terminate the contract or the part of the contract which is concerned thereby.

If the supplier wishes to terminate the contract, after having recognized the consequences of the event, it shall immediately inform the customer. This applies even if an extension of the delivery time has been agreed beforehand. In case of a termination of the contract the supplier shall be entitled to the payment of those parts of the supplies and services which have already been carried out. Claims for damages on the part of the customer because of such termination are excluded.

### **15. Exclusion of further liability**

15.1 All cases of breach of contract and the relevant consequences as well as all rights and claims on the part of the customer, irrespective on what ground they are based, are exhaustively covered by these General Sales Conditions. In particular, are excluded, any claims not expressly mentioned for damages, reduction of price, termination of or withdrawal from the contract. In no case is the customer entitled to request reparation for damages which are not caused to the object of the delivery. 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 the supplier, but does apply to unlawful intent or gross negligence of persons employed or appointed by the supplier to perform any of its obligations.

### **16. Right of recourse of the supplier**

16.1 If, through actions or omissions of the customer 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 the supplier, then the latter shall be entitled to take recourse against the customer.

### **17. Installation**

17.1 If the supplier undertakes the installation or the supervision of the installation, the General Conditions of Installation of the supplier shall apply.

### **18. Subsequent damages**

18.1 Damages caused after the acceptance are not covered by the supplier.

### **19. Jurisdiction and applicable law**

19.1 The place of jurisdiction for both the customer and the supplier shall be at the registered office of the supplier.

19.2 The supplier shall, however, be entitled to sue the customer at the latter's registered address.

19.3 The contract shall be governed by Swiss law.

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