

# General Terms and Conditions

## 1. General

1.1 These General Terms and Conditions shall be binding if declared applicable in the offer or order confirmation. Any conditions stipulated by the customer which are in contradiction to these general conditions shall only be valid if expressly accepted by the supplier in writing.

1.2 All agreements and legally relevant declarations to the contract have to be in writing in order to be valid.

## 2. Offers and conclusion of contract

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

## 3. Scope of supplies

3.1 The supplies are specified in the order confirmation. Any material and services which are not included therein shall be additionally charged.

3.2 The supplier shall be entitled to make any changes which lead to improvements.

## 4. Regulations in force in the country of destination

The customer shall inform the supplier, upon placing the order at the latest, about 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 personnel.

## 5. Prices

Unless otherwise agreed upon, all prices shall be deemed to be net ex works, in Euro (€) and shall not include any packing, freight, insurance, taxes, duties, assembling, installation and initiation.

## 6. Terms of payment

6.1 Payments by customers domiciled in Switzerland shall be made within 30 days net. For supplies to foreign countries, payment shall be made by irrevocable letter of credit confirmed by a reputed Swiss Bank, unless otherwise agreed upon.

6.2 Payments shall be made by the customer to the registered address of the supplier without any deducting for cash discount, expenses, taxes or duties of any kind. Other terms of payment may be agreed separately.

6.3 In case of delay in payment the supplier is entitled to discontinue planned deliveries and to charge a default interest of 6 % p.a.

## 7. Proprietary right

7.1 The supplier shall retain ownership of the products supplied until full payment has been received. The customer shall take all necessary measures for the protection of the proprietary rights of the supplier.

7.2 The supplier is entitled, with customer's participation, to apply for registration of the reservation of the proprietary right.

## 8. Delivery time

8.1 The delivery time shall be deemed to be observed if by that time the supplier has sent notice to the customer informing that the supplies are ready for dispatch.

8.2 The delivery time shall be reasonably extended:

- if the information required by the supplier for performance of the contract is not received in time, or if the customer subsequently changes it;
- if agreed terms of payment are not met, letters of credit are opened too late, or the necessary import licenses are not received by the supplier in time;
- if hindrances occur which the supplier cannot prevent despite using the required care, regardless 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, serious breakdown in the works, accidents, labour conflicts, late or deficient delivery by subcontractors of raw material, semi finished or finished products, official actions or omissions by any state authorities or public bodies, natural catastrophes, acts of God.

## 9. Delay in delivery

9.1 The customer shall be entitled to claim liquidated damages for delayed delivery provided that the delay has been caused by a fault of the supplier and that the customer has suffered a loss as a result of such delay. If substitute material can be supplied to accommodate the customer, the latter is not entitled to any damages for delay.

9.2 Damages for delayed delivery shall not exceed ½ % of the part of supply in delay for every full week's delay and shall in no case whatsoever exceed 5 % of the contract price of the part of the supplies in delay. No damages at all shall be due for the first two weeks of delay.

9.3 After reaching the maximum liquidated damages for delayed delivery, the customer shall grant the supplier a reasonable extension of time in writing. If such extension is not observed for reasons within supplier's control, the customer shall have the right to reject the delayed part of the supplies of services. If a partial acceptance is economically not justified on the part of the customer, the latter shall be entitled to terminate the contract and to claim refund of the money already paid against return of the deliveries supplied.

9.4 Any delay of the supplies does not entitle the customer to any rights and claims other than those expressly stipulated in this Article 9. 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.

**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 works.

10.2 If dispatch is delayed at the request of the customer or due to reasons beyond supplier's control, the risk of the supplies shall pass to the customer 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 customer.

**11. Forwarding, transport and insurance**

11.1 The products will be packed by the supplier. The packing will be charged separately at the cost of the supplier, unless otherwise agreed upon.

11.2 Special requirements regarding forwarding and insurance shall be communicated to the supplier in due time. Transport shall be at the customer's expense, unless otherwise agreed upon, and at the customer's risk. Complaints in respect of transport shall be submitted immediately by the customer to the last carrier on receipt of the products or the shipping documents.

11.3 The insurance of the products against risks of any kind is the responsibility of the customer. If effected by the supplier, it shall be at the customer's expense, unless otherwise agreed upon.

**12. Inspection and taking-over of the supplies**

The customer shall inspect the supplied products within a reasonable period after having received them and shall immediately notify the supplier in writing of any deficiencies. If the customer fails in doing so, the products shall be deemed to have been taken over.

**13. Warranty and disclaimer**

13.1 The supplier hereby warrants that the products delivered by him will be free from defects in material and workmanship.

13.2 Express warranties are only those expressly specified as such in the order confirmation. An express warranty is valid until the expiry of the warranty period at the latest.

13.3 In case delivered products are defective, the customer may request for compensation delivery or elimination of defect by the supplier during the warranty period of 1 year beginning on the date of supplier's notification that the products are ready for dispatch.

13.4 If a defect according to Article 13.3 is not eliminated or compensated by the supplier within a reasonable period, the customer may ask for price reduction or annulment of the contract.

13.5 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 all appropriate steps to mitigate the damage and give the supplier the possibility of remedying such defect.

13.6 Excluded from supplier's warranty and liability for defects are all deficiencies which cannot be proved to have their origin in bad material, faulty design, poor workmanship or resulting from other reasons beyond supplier's control.

13.7 With respect to any defective material or workmanship as well as to any failure to fulfil express warranties, the customer shall not be entitled to any rights and claims other than those expressly stipulated in Articles 13.3 and 13.4 hereof.

**14. Exclusion of further liability**

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 conditions of supply. In particular, any claims not expressly mentioned for damages, reduction of price, termination of or withdrawal from the contract are excluded. In no case whatsoever shall the customer 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 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.

**15. Governing law**

The present contract shall be governed in all respects by Swiss substantive law. The application of the United Nations Convention of Contracts for the International Sale of Goods (CISG) shall be excluded.

**16. Jurisdiction**

The place of jurisdiction for both the customer and the supplier shall be at the registered office of the supplier. The supplier shall, however, be entitled to sue the customer at the latter's registered address.