

# General sales and delivery conditions



Edition 2022

## 1. General

- 1.1. The contract shall be deemed to have been entered into upon receipt of supplier's written acceptance of the order (order confirmation). Offers not specifying acceptance periods shall not be binding.
- 1.2. These conditions shall be binding if so stated in the offer or the order confirmation. Provisions deviating from the General Sales and Delivery Conditions (the "Conditions") issued by orderer shall be valid only if accepted by supplier in writing.
- 1.3. All agreements and legally relevant declarations of the parties to the contract must be in writing in order to be valid.
- 1.4. If a provision of the contract is found to be invalid, all other provisions shall remain unaffected. The parties will replace the invalid provision with a valid provision that is as close as possible to the purpose of the invalid provision.

## 2. Scope of supplies and services

The supplies and services are exhaustively specified in the order confirmation and in possible appendices thereto. Supplier may make changes or improvements thereto that do not result in an increase in price.

## 3. Prices

- 3.1. Unless otherwise specified in writing, all prices shall be net, ex works. Any and all additional charges, such as, but not limited to, transport, packaging, taxes, fees, freight charges, insurance premiums, fees for export, transit, import and other permits, as well as for certifications, shall be borne by the customer. Additional expenses for expedited delivery such as, but not limited to, express-fees, are charged extra and shall be borne by the orderer. All mail fees are charged at their entire value.
- 3.2. The supplier reserves the right to adjust the prices in case the raw material prices increase by at least 10% between the submission of the tender and the contractually agreed performance.

## 4. Packing and cost for tools

- 4.1. Unless otherwise agreed upon, packing materials are invoiced to the orderer.
- 4.2. Unless otherwise agreed upon, packing materials are considered as one-way packing, and their disposal shall be at the sole expense of the orderer.
- 4.3. Proportionate costs for tools (dies, engravings and so on) are invoiced at the latest after submittal of the initial samples, regardless of later orders. Even if proportionate costs for tools are invoiced to the orderer, all tools which were manufactured for the performance of the orders remain the property of the supplier.

## 5. Terms of payment

- 5.1. Payments shall be made by the orderer at supplier's domicile according to the agreed terms of payment without any deductions.
- 5.2. Unless otherwise agreed upon, the invoiced amount shall be payable no later than 30 days within the invoice date.

## 6. Reservation of title

- 6.1. The supplier shall remain the owner of all supplies until having received the full payments in accordance with the contract. With conclusion of the contract, the customer authorizes the supplier to enter or register the reservation of title at the customer's expense in public registers, books or the like and to fulfil all required formalities. The orderer shall store the goods on supplier's behalf without Charge. The orderer shall maintain the goods in good condition and insure them adequately, at its expense and with the supplier as beneficiary, against theft, damage due to breakage, fire, water and other risks for the duration of title reservation.

## 7. Delivery time

- 7.1. Unless otherwise specifically agreed upon in writing, all delivery dates and delivery times stated by supplier shall be considered as estimates only. While delivery dates are stated in good faith, they shall not be guaranteed.
- 7.2. 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, eventual payments due with the order have been made, any agreed securities given, the documents to be supplied by orderer have been made available 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 orderer informing that the supplies are ready for dispatch.
- 7.3. If, due to an event of force majeure, the supplier cannot be expected to perform his obligations, the date of delivery shall be postponed, resp. the delivery time shall be extended, automatically for the duration of the event of force majeure.

## 8. Passing of benefit and risk

- 8.1. Unless otherwise agreed upon, benefit and risk shall pass to orderer at the latest when the supplies leave the factory or warehouse. All goods are shipped at orderer's own risk.

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

- 9.1. As far as being normal practice, the supplier shall inspect the supplies and services before dispatch. If the orderer requests further testing, this has to be specially agreed upon and paid for by the orderer.
- 9.2. The orderer shall inspect the supplies and services immediately upon receipt of the goods and shall immediately notify the supplier in writing of any deficiencies or deviations. If the orderer fails in doing so, the supplies and services shall be deemed to have been accepted.
- 9.3. The carrying out of an acceptance test by the orderer as well as laying down the conditions related thereto need a special agreement.

## 10. Guarantee, liability for defects, extent of supply

- 10.1. *Guarantee period*  
The guarantee period is 6 months from the notice that the supplies are ready for dispatch, unless different agreements have been reached.
- 10.2. *Liability for defects in material design and workmanship*  
The supplier undertakes, as soon as possible and at its choice, to repair, replace or pay the net replacement value of all parts of the supplies which, before the expiry of the guarantee period, are proved to be defective due to bad material, faulty design or poor workmanship; provided that the defect occurred during the guarantee period and was notified to the supplier before the expiry of the guarantee period. The supplier is not liable for defects that occur or are notified after the expiry of the guarantee period (forfeiture of warranty rights).
- 10.3. *Exclusions from the liability for defects*  
Excluded from supplier's guarantee and liability for defects are all deficiencies which cannot be proved to have their origin in bad material, faulty design or poor workmanship (but result from e.g. normal wear, improper maintenance, failure to observe the operating instructions, excessive loading). The supplier is not liable for damages resulting from defective software that is included in the scope of supply.

## 10.4. Extent of supply

Supplier reserves the right of under- or excess shipments of up to 10% of the ordered quantity. The prices may be adjusted accordingly.

## 11. Exclusion of further liability

- 11.1. All cases of breach of contract by the supplier and any remedy resulting therefrom are conclusively regulated in these Conditions. Any rights and claims on the part of the orderer other than those expressly stipulated in these Conditions are excluded, irrespective of what ground they are based (in particular claims for damages, reduction of price or termination of the contract). In no case whatsoever shall the orderer be entitled to claim damages other than compensation for costs of remedying defects in the supplies, such as (but not limited to) loss of production, loss of use, loss of Orders, loss of profit and other direct or indirect or consequential damages.
- 11.2. These exclusions, however, do not apply to unlawful intent or gross negligence on the part of the supplier, but do apply to unlawful intent or gross negligence of persons employed or appointed by the supplier to perform any of its obligations (*Hilfspersonen* in the sense of art. 101 para. 1 of the Swiss Code of Obligations).

## 12. Place of jurisdiction and applicable law

- 12.1. The exclusive place of jurisdiction for both the orderer and the supplier shall be at **Breitenbach (Switzerland)**. The supplier shall, however, in addition be entitled to sue the orderer at the latter's seat.
- 12.2. The legal relationship between the orderer and the supplier shall be governed by Swiss substantive law, under exclusion of the Vienna United Nations convention on contracts for international sale of goods of April 11. 1980.