

GENERAL CONDITIONS OF CONTRACT

FOR THE SUPPLY OF MACHINERY AND SPARE PARTS

1. GENERAL

- 1.1 The contract shall be deemed to have entered into upon receipt of supplier's written acknowledgement stating its acceptance of the order. Tenders which do not stipulate an acceptance period shall not be binding. All agreement and official statements must be notified in writing.
- 1.2 These general conditions of supply shall be binding if declared applicable in the tender 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 if expressly acknowledged by the supplier in writing.

2. SCOPE OF SUPPLIES AND SERVICES

- 2.1 The supplies and services are exhaustively specified in the order acknowledgement and in appendices thereto. The supplier is allowed to undertake works, so far it does not involve any price increase

3. TECHNICAL DOCUMENTS

- 3.1 Unless otherwise agreed upon, brochures and catalogues are not binding. Data provided in technical documents are only binding in so far as having been expressly stipulated as such.
- 3.2 Each party to the contract retains all rights to technical documents provided to the other. The party receiving such documents recognises these rights and shall, not without previous written consent of the other party, make either in whole or in part, nor use them for purposes other than those 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, and to the operation of the plant as well as to the health and safety of 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 as having been expressly agreed upon.

5. PRICES

- 5.1 All prices shall be deemed to be net ex works, excluding packing, in freely available Swiss francs, without any deductions whatsoever.

Any and all additional charges, such as, but not limited to, freight charges, 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 and all taxes, fees, levies, custom 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.

The packing is billed separately by the supplier and will not be taken back. But if it has been designed as property of the supplier, it must be sent back by the customer free of charges to the supplier.

Any insurance costs for the transport damages the responsibility of the customer.

- 5.2 The supplier reserves the right to adjust the prices in the event that the wage rates or the raw material prices vary between the submission of the tender and the contractually agreed performance. In such case the adjustment shall be made according to the wage rates and material prices variations.

In addition, an appropriate price adjustment shall apply in case

- the delivery time has been subsequently extended due to any reason stated in clause 8.2, 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 domicile 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 acknowledgement 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 domicile.

6.2 The dates of payment shall also be observed if transport, delivery, erection, commissioning or taking over 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 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 domicile but not less than 4 % over the current discount rate of the Swiss National Bank.

7. RESERVATION OF TITLE

7.1 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, any 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 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, serious breakdown in the works, 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, acts of God;
- 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.

8.3 The customer shall be entitled to claim liquidated damages for delayed delivery in so far as it can be proved that the delay has been caused through the 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.

Damages for delayed delivery shall not exceed ½ % for every full week's delay and shall in no case whatsoever altogether 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.

8.4 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 8.1 to 8.3 apply by analogy.

8.5 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. PASSING OF BENEFIT AND RISK

- 9.1 The benefit and the risk of the supplies shall pass to the customer by the date of their leaving the works.
- 9.2 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.

10. FORWARDING AND TRANSPORT

- 10.1 The supplier shall in time be notified of special requirements regarding forwarding, transport and insurance.
- 10.2 Objections regarding forwarding or transport shall upon receipt of the supplies or of the shipping documents be immediately submitted by the customer to the last carrier.

11. INSPECTION AND TAKING-OVER OF THE SUPPLIES AND SERVICES

- 11.1 As far as being normal practice, the supplier shall inspect the supplies before dispatch. If the customer requests further testing, this has to be specially agreed upon and paid for the customer.
- 11.2 The customer shall inspect the supplies and services within a reasonable period and shall immediately notify the supplier in writing of any deficiencies. If the customer fails in doing so, the supplies and services shall be deemed to have been taken over.
- 11.3 Having been notified of the deficiencies the supplier shall as soon as possible remedy them according to clause 11.2, and the customer shall give the supplier the possibility of doing so.
- 11.4 The carrying out of taking-over test as well as laying down the conditions related thereto need a special agreement.
- 11.5 Deficiencies of any kind in supplies or services shall not entitle the customer to any rights and claims other than those expressly stipulated in clauses 11.4 and 12 (guarantee, liability for defects).

12. GUARANTEE, LIABILITY FOR DEFECTS

- 12.1 The guarantee period is 12 months, or 6 months in case of 24-hour operation. It starts when the supplies leave the works or at the taking-over of the supplies and services should such taking-over have been agreed upon before, or if the supplier undertakes the erection upon completion thereof. If dispatch or taking-over or erection is delayed due to reasons beyond supplier's control, guarantee period shall end not later than 18 months after supplier's notification that the supplies are ready for dispatch.

For replaced or repaired parts the guarantee period starts anew and lasts 6 months after replacement or completion of the repair or taking-over, but not longer than the expiry of a period being double to the guarantee period stipulated in the preceding paragraph.

The guarantee 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.

- 12.2 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 guarantee period, are proved to be defective due to bad material, faulty design or poor workmanship.
- 12.3 Express warranties are only those which have been expressly specified as such in the order acknowledgement or in the specifications. Any express warranty is valid until the expiry of the guarantee period at the latest.
- 12.4 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, 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 erection work not undertaken by the supplier, or resulting from other reasons beyond supplier's control.
- 12.5 For supplies and services of subcontractors requested by the customer, the supplier assumes guarantee and liability for defects only to the extent of such subcontractor guarantee and liability obligations.
- 12.6 With respect to any defective material, design 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 clauses 12.1 to 12.5
- 12.7 The suppliers is only liable to the extent of unlawful intent or gross negligence as far as the claims arising out of faulty advice and the like or out of breach of any additional obligations are concerned.

13. NON-PERFORMANCE, BAD PERFORMANCE AND THEIR CONSEQUENCES

- 13.1 In all cases of bad performance or non-performance not expressly covered by these general conditions of supply – in particular if the supplier, without valid reasons, starts execution of the supplies and services so late that punctual completion is unlikely to be foreseen, or if an execution contrary to the terms of the contract can be clearly foreseen due to supplier's fault, or if the supplies and services have been executed contrary to the terms of the contract due to supplier's fault -, then the customer shall be entitled to grant a reasonable additional period for the supplies or services affected thereby by simultaneously warning to terminate the contract in case of non-compliance. If such additional period lapses due to supplier's fault, the customer shall be entitled to terminate the contract with respect to the supplies or services executed, or certain to be executed, contrary to the terms of the contract, and to claim a refund of the payments already made for such supplies or services.
- 13.2 In such cases clause 14 shall apply with regard to any claims for damages on the part of the customer and with regard to the exclusion of any further liability, and any claim for damages shall be limited to 10 % of the contract price for the supplies and services affected by the termination.

14. EXCLUSION OF FURTHER LIABILITY

- 14.1 Any rights and claims on the part of the customer other than those expressly stipulated in these general conditions of supply are excluded, irrespective on what ground they are based; this in particular refers to claims for damages, reduction of price or termination of the contract unless expressly stipulated therein. 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 damages. 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.

15. INSTALLATION

- 15.1 Unless otherwise agreed in writing, it is the sole responsibility of the customer to set up and connect the machine in accordance with the descriptions and instructions of the applicable Operating Instructions provided by the supplier.

16. JURISDICTION AND APPLICABLE LAW

- 16.1 The place of jurisdiction for both the customer and the supplier is Baseland.
The supplier shall, however, be entitled to sue the customer at the latter's registered address.
The contract shall be governed by Swiss law.

30.12.2020