

1. General Provisions

- 1.1 These *General Conditions of Sale and Delivery* shall be binding if so stated in the offer or the order confirmation. Provisions at variance with these *General Conditions of Sale and Delivery* issued by the customer shall be valid only if accepted in writing by Swiss Tec ("supplier").
- 1.2 Offers not specifying acceptance periods shall not be binding.
- 1.3 The contract shall be deemed to have been entered into upon receipt of the supplier's written acceptance of the order (order confirmation). If the supplier specifies an acceptance period in his written offer, the contract shall be considered as concluded if a written acceptance notice has been sent to the supplier within this period and is in the supplier's possession not later than seven (7) days after the expiry of such period.

2. Scope of Supplies and Services

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

3. Technical Documents

- 3.1 Unless otherwise agreed upon in writing, brochures and catalogues are not binding. Data provided for in technical documents such as drawings, descriptions, illustrations, weight and performance specifications 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 recognizes these rights and shall - without the prior written consent of the other party - not make them available to any third party, nor 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 erection, to the operation, as well as to accident and illness prevention.
- 4.2 Should such information arrive too late for inclusion in the order, the supplier shall conform to the regulations and standards applicable at the supplier's domicile.

5. Delivery Time

- 5.1 Unless otherwise specifically agreed upon in writing, all dates and delivery times stated by the supplier shall be considered as estimates only. While delivery dates are stated in good faith, they shall not be guaranteed. In case of a specific, written and binding delivery time, the following articles, numbered 5.2 to 5.7, shall apply.
- 5.2 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, payments due with the order have been made, any agreed securities given, 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. Partial shipments shall be permitted.
- 5.3 Compliance with the delivery time is conditional upon the customer's fulfilling of its contractual obligations.
- 5.4 The delivery time is - even in case of a delay in delivery - reasonably extended:
 - (a) if the information required by the supplier for the proper performance of the contract is not received in time, or if the customer subsequently changes it thereby causing a delay in the delivery and/or erection 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, mobilization, war (whether declared or not), revolution, riots, serious breakdown in the works, accidents, labour conflicts, late or deficient delivery by subcontractors of raw materials, semi-finished or finished products, obstacles to shipping, lack of means of transportation, natural catastrophes or other 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.
- 5.5 Liquidated damages for delayed delivery shall only be due if the supplier specifically agrees in writing to a certain delivery time and to pay liquidated damages, if it fails to keep it. In such a case 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 default 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.
- 5.6 Liquidated damages shall not exceed a total of five per cent (5%) of the contract price for the delayed part of the overall order. The first two (2) weeks of a delay shall not constitute grounds for imposing liquidated damages for delayed delivery.
- 5.7 Any delay of the supplies or services does not entitle the customer to any rights and claims other than those expressly stipulated hereinabove.

6. Packaging

- 6.1 Containers, pallets and other packing materials designated as property of the supplier must be returned by the customer carriage paid and in good order within thirty (30) days after receipt to the place of dispatch, in default of which they are invoiced by the supplier.
- 6.2 The application of regulations of compulsory law remains reserved.

7. Delivery and Transfer of Risk

In case of a specific delivery date agreed upon by the parties, benefit and risk shall pass to the customer when the supplies leave the factory or warehouse (ex works as per *Incoterms 2000*). If no specific delivery date has been fixed, benefit and risk shall pass to the customer when the supplies are ready for dispatch. Both cases shall apply regardless of who handles shipping and pays shipping costs or whether or not erection is included in the price.

8. Transport

Transport shall be at the customer's expense and risk. Objections in connection with dispatch or transport shall be addressed by the customer directly to the last carrier immediately upon receipt of the shipment or freight documents. The customer shall be responsible for insurance against damages of any kind.

9. Prices

- 9.1 Unless otherwise agreed upon in writing, all prices are net, without any deductions (ex works as per *Incoterms 2000*). Any and all additional charges, such as, but not limited to, taxes, packaging, freight, insurance, export, transit and other licenses and certifications shall be borne by the customer.
- 9.2 The supplier reserves the right to adjust the prices in case the parties have agreed upon a sliding-price formula and/or in case
 - (a) the delivery time has been subsequently extended for one of the reasons specified in article 5.4 hereinabove; or
 - (b) the nature or the scope of the agreed supplies or services has changed; or
 - (c) 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.

10. Terms of Payment

- 10.1 Payments shall be made at the supplier's domicile or headquarter, respectively, in cash or by order for payment, and in compliance with the agreed terms of payment, net without any deduction of discounts, expenses, taxes, levies, fees, custom duties, and the like.
- 10.2 Unless otherwise agreed upon in writing, the invoiced amount shall be payable no later than thirty (30) days within the invoice date. In case of invoice of partial delivery, payment shall be made for each such delivery according to the agreed upon terms of payment.
- 10.3 The dates of payment shall also be observed if transport, delivery, erection, commissioning or taking over of the supplies or services is delayed or prevented due to reasons beyond the supplier's control.
- 10.4 If the customer delays in the agreed terms of payment, he shall be liable, without reminder, for interests with effect from the date on which the payment was due at the rate depending on the terms prevailing at the customer's domicile, but not less than four per cent (4%) over the current discount rate of the Swiss National Bank, unless a higher rate of interest was previously agreed upon.

11. Tolerances, Inspection and Acceptance

- 11.1 Deviations in dimensions, weight and quality shall be permitted inasmuch as they conform to pertinent, internationally recognized standards or general business usage and customs.
- 11.2 As far as being normal practice, the supplier shall inspect the supplies and services before despatch. If the customer requires further testing, this has to be specifically agreed upon.
- 11.3 The customer shall inspect the supplies and services immediately upon receipt of the goods 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.
- 11.4 Having been notified of the deficiencies, the supplier shall as soon as possible remedy them and the customer shall give the supplier the possibility of doing so.
- 11.5 The carrying out of a taking-over test needs a special agreement.
- 11.6 Deficiencies of any kind in the supplies or services shall not entitle the customer to any right and claims other than those expressly stipulated in article 11.4 hereinabove and article 12 hereinafter.

12. Guarantee, Liability for Defects

- 12.1 The guarantee period is min. 2000 working hours. It starts when the supplies leave the works, at the taking-over of the supplies should taking-over have been agreed upon before or, if the supplier undertakes the erection, upon completion thereof.
- 12.2 If dispatch or taking-over or erection are delayed due to reasons beyond the supplier's control, the guarantee period shall end not later than eighteen (18) months after the supplier's notification that the supplies are ready for dispatch.
- 12.3 For replaced or repaired parts the guarantee period starts anew and lasts not later than twenty-four (24) months, starting from the beginning of the original guarantee period of the supplies.
- 12.4 Upon written request by the customer, the supplier undertakes at his choice to repair or replace as quickly as possible any parts of the supplies which, before the expiry of the guarantee period, are proven to be defective due to bad material, faulty design or poor workmanship.
- 12.5 Express warranties are only those which have been expressly specified as such in the order confirmation or in the specifications.
- 12.6 Excluded from the 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, use of any unsuitable material, erection work not undertaken by the supplier or resulting from other reasons beyond the supplier's control.
- 12.7 With respect to any defective material, faulty design or poor workmanship as well as to any failure to fulfill express warranties, the customer shall not be entitled to any rights and claims other than those expressly stipulated hereinabove.

13. Exclusion of Further Liability

Any rights and claims on the part of the customer other than those expressly stipulated in these *General Conditions of Sale and Delivery* are excluded; this in particular refers to claims for damages or reduction of price. 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.

14. Reservation of Title

When the supplies are delivered prior to the time the customer has paid all amounts owing according to the contract, the supplier shall retain title to the goods until such times as all claims are satisfied. This provision shall be applicable in so far as the laws in the country of the customer do not prohibit such regulations.

15. Law Applicable and Jurisdiction

The contract shall be exclusively governed by the substantive laws of Switzerland, under exclusion of the Vienna United Nations convention on contracts for international sale of goods of April 11, 1980.

Place of jurisdiction for both the customer and the supplier shall be **Schaan, Liechtenstein**. The supplier shall, however, also be entitled to file legal action against the customer at the place of the customer's registered office.