

# General Terms and Conditions of Sale

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## 1. General

- 1.1 The contract is deemed valid when, on receipt of an Order, SEH Technik GmbH confirms the acceptance in writing (by means of an Order Confirmation).
- 1.2 These General Terms and Conditions of Sale are binding when in the Offer or the Order Confirmation the intention to apply these General Terms and Conditions of Sale is clearly stated. Other terms and conditions are valid only, if SEH Technik GmbH has accepted them in writing.
- 1.3 In order to be valid, all agreements and legally binding arrangements of the Parties must be executed in writing. Electronic communication shall be considered equivalent to written communication, only if such equivalency has been explicitly agreed upon by the Parties.

## 2. Scope of Delivery

The scope of delivery provided by SEH Technik GmbH is completely and entirely defined in the Order Confirmation and any accompanying documents.

## 3. Plans, Drawings and Technical Documents

- 3.1 Unless otherwise agreed upon, plans, drawings and documents of any kind including brochures and catalogs are not binding. Technical information contained in the drawings and documents are only applicable and binding to the extent that the information has been explicitly confirmed.
- 3.2 Each Party to the contract retains all its respective rights to the plans drawings and technical documents provided to the other Party. The Party receiving such plans, drawings and documents acknowledges these rights and shall not make any plans drawings and technical documents available to any third party, either in whole or in part, without the prior written consent of the other contracting party, nor use them for purposes other than those for which they were handed over.

## 4. Prices

- 4.1 All prices are understood to be net exclusive of taxes and charges such as value added tax, customs duties, etc. without additional charges for packaging and without any rebates or deductions.
- 4.2 SEH Technik GmbH reserves the right to invoice an appropriate price adjustment in the case of any extensions to the agreed upon delivery time for any reason stated in section 7.2 below or in case that documents furnished by the Buyer were not representative of actual circumstances or were incomplete.

## 5. Payment Terms

- 5.1 Payments shall be made by the Buyer to the registered address of the Supplier without any kind of deductions for cash discount, expenses, taxes or duties.

- 5.2 If the Buyer fails to comply with the agreed payment dates, the buyer automatically agrees to the payment of default interest from the agreed due date without a reminder being issued. The payments shall be based on the interest rates prevailing at the domicile of the Buyer at a rate of 4% above the current discount rate of the Swiss Central Bank. Additionally, SEH Technik GmbH reserves the right to assess penalties for additional damages.

## 6. Reservation of Title

- 6.1 The Supplier shall remain the owner of the entire scope of supply until the full payments in accordance with the contract have been received.
- 6.2 During the period of the reservation of title, the Buyer shall, at his own cost, maintain the entire scope of delivery and insure it for the benefit of the Supplier against theft, breakdown, fire, water and other risks. Furthermore, the Buyer will take any measures required to ensure that the Supplier's claim of ownership is neither prejudiced nor invalidated.

## 7. Terms of Delivery

- 7.1 The delivery date is fixed as soon as all official formalities have been fulfilled, all payments due at the time of order have been made, any agreed upon securities have been given and the required, main technical points are settled. The delivery date is considered to be met when, on the agreed upon date, the readiness for shipment is given by the Seller to the Buyer.
- 7.2 The delivery period shall be reasonably and appropriately extended in the event:
- a) that the Supplier does not receive the details necessary for the execution of the contract in good time, or if the Buyer subsequently requires a change in the scope of supply which leads to additional work or a delay in the execution of the work
  - b) if hindrances occur which are beyond the Supplier's control despite taking due care, irrespective of whether the cause rests with himself, the Buyer or a third party. Such impediments include *force majeure*, e.g. epidemics, mobilization, war, riots, substantial breakdowns in operations, accidents, work conflicts, deficiencies in external supply of raw or partially finished goods, production yields of significant components, measures by authorities, certain neglect and natural catastrophes
  - c) that the Buyer or a third party is late in completing works required by and in accordance with the contract or is delayed in fulfilling other contractual obligations and in particular if he does not respect payment conditions and schedule
- 7.3 The Buyer is entitled to claim liquid damages for delayed delivery in so far as it can be proven that the delay was caused through fault of the Supplier and that the Buyer can prove that he has suffered a loss from the delay. If the loss is compensated for by a delivery of spare parts, the claim to damages shall be considered to have been met.
- 7.4 The amount of compensation payable for a delay of the delivery will be based on the value of that part of the scope of delivery, which as a result of delay is not delivered on time and shall be equivalent to a maximum of ½% for each complete week of the delay up to a maximum total of 5%. However, the aforementioned compensation scheme is subject to a two-week grace period for which the Buyer will have no right to compensation.
- 7.5 If the Supplier fails to deliver the goods and serviced as defined in the Contract by the date at which the Buyer would have the right to make a claim for the maximum amount of liquid damages, the Buyer shall grant the Supplier a reasonable extension of time to complete the delivery. If the Supplier does not meet this delivery extension, the Buyer has the right to reject the

delivery of that part of the part of the scope of delivery, which as a result of delay was not delivered on time. If a partial delivery is does not make economic sense, the Buyer has the right to cancel the Contract and demand repayment of any payments made against return of the entire scope of delivery.

- 7.6 A delay in delivery of part or all of the agreed upon scope of supply does not give the Buyer any additional rights or claims except for those expressly stipulated in this Section 7. This restriction shall not apply if the Supplier has acted with unlawful intent or with gross negligence; however, it shall apply if a third party or agent of any kind has acted with unlawful intent or with gross negligence.

## **8. Transfer of Benefits and Risks**

- 8.1 Benefits and risks are transferred to the Buyer at the latest when shipments leave the Supplier's factory.
- 8.2 If there is any postponement of the handover or of dispatch at the request of the Buyer or for other reasons which the Supplier is not responsible, the risk is transferred to the Buyer at the moment provided for in law but no later than the time originally fixed for the handover or dispatch. From that point onward the goods are stored at the expense and at the risk of the Buyer.

## **9. Examination and Acceptance of the Scope of Delivery**

- 9.1 The Supplier will examine the goods and services to the customary extent prior to dispatch. Should the Buyer require more detailed examination, this must be specifically agreed upon and paid for by the Buyer.
- 9.2 The Buyer must examine the goods in a reasonable amount of time following the reception of the goods and completion of the services and must inform the Supplier in writing of any shortcomings or defects. Should the Buyer fail to do this, the goods and services are deemed to be accepted.
- 9.3 The Supplier must remedy the shortcomings or defects reported to him under 9.2 above, and the Buyer must give the Supplier the opportunity and a reasonable amount of time to do so.
- 9.4 The performance of an acceptance test as well as the determination of the conditions applicable thereto require a special agreement.
- 9.5 Deficiencies of whatever kind in the Supplier's goods and services do not give the Buyer any rights or claims except for those expressly named in this Section 9 in Section 10 below (Warranty and Liability for Defects) and in Section 11 (Exclusion of Further Liabilities).

## **10. Warranty and Liability for Defects**

- 10.1 The warranty period lasts for 12 months in normal 1 shift operation and in multi-shift operation 6 months. The warranty period begins with the dispatch of the goods or completion of the service. If the dispatch of the goods is delayed for reasons beyond the control the Supplier, the warranty period ends at the latest 18 months following the notice of readiness to dispatch
- 10.2 For replaced or repaired parts, the warranty period lasts for 6 months following replacement or completion of the repair work but at the latest shall end after a period that is the double of the aforementioned period described in Section 10.1.

- 10.3 The warranty period shall expire prematurely if the buyer or a third party makes improper changes or repairs, or, in the case of a defect, if the buyer does not take all suitable measures to prevent further damage and does not give the Seller the opportunity to remedy the defect.
- 10.4 The Seller undertakes, when requested to do so in writing by the Buyer, to repair or replace, at the Seller's choice, as quickly as possible, all parts of the products delivered which demonstrably become damaged or unusable owing to poor materials or defects in design or workmanship, until the end of the warranty period. Replaced parts become the property of the Seller unless the Seller explicitly renounces any claim to those parts.
- 10.5 The only warranted product characteristics are those that have been explicitly described as such in the specification. These product characteristics are warranted until the end of the warranty period.
- 10.6 Should the goods and services not possess or only partially possess the warranted product characteristics, the Buyer may immediately demand rectification from the Supplier claim for the shortcomings. In this respect, the Buyer must give the Seller the required time and opportunity to perform the needed improvements. If such improvements fail completely or in part, the customer may claim a reasonable reduction of price. Should the defect be of such significance that it cannot be rectified within a reasonable period, and the goods or services are unable to render the performance and are therefore unusable or only usable in significantly reduced measures, the Buyer retains the right to refuse acceptance of the defective part, or, should a partial acceptance not be commercially viable, to withdraw from the contract. In this sense, SEH Technik GmbH shall only be liable, however, to refund and compensate at the most the amount of the purchase price of the goods or services.
- 10.7 Excluded from the warranty and Supplier's liability is damage that has not demonstrably arisen as a result of poor material, errors in design or defective manufacture, but is due, for example, to natural wear and tear, inappropriate storage or handling, inadequate maintenance, failure to observe operating instructions, excessive loading, unsuitable operating resources, chemical or electrolytic influences, assembly work not carried out by the Supplier, or due to any other reasons that the Supplier is not responsible for.
- 10.8 Deficiencies of whatever kind in the Supplier's deliveries or services including shortcomings in material, design, manufacturing or execution as well as operational characteristics do not give the Buyer any rights or claims except for those expressly named in 10.1 to 10.4 above. Also applicable is the exclusion from liability under Section 12.

## 11. Exclusion of Further Liabilities

All instances of breaches of contract and their legal consequences and all claims by the Buyer against the Supplier, no matter on what legal grounds they are asserted, are definitively settled by these terms and conditions. Excluded in particular are all claims, not expressly mentioned, on the part of the Buyer against the Supplier for damages, reduction of purchase price, cancellation of the contract or withdrawal from the contract. The Supplier's liability is restricted to the value of his delivered goods and services. The Supplier is not liable for damages to items owned by the Buyer or third parties, which have been handed over to him to be worked on or stored. In no case can the Buyer assert claims for compensation for damage, which has not been caused to a delivered item itself, such as, specifically, loss of production, loss of use, loss of orders, loss of profit and any other indirect or direct damages. This exclusion of liability does not apply to unlawful intent or gross negligence by the Supplier, it does however apply to unlawful intent or gross negligence by auxiliary persons.

Furthermore, no part of this exclusion of liability applies where mandatory law opposes it.

## 12. Jurisdiction and Applicable Law

- 12.1 The place of jurisdiction for any claims brought either by the Buyer or the Seller shall be the competent court of the registered domicile of SEH Technik GmbH.  
The Seller may, however, bring an action before the competent court of the Buyer's domicile.
- 12.2 The legal relationship shall be subject to substantive Swiss law.