

GENERAL TERMS AND CONDITIONS FOR THE SUPPLY OF GOODS AND SERVICES

SCHEFFER KRANTECHNIK GMBH /
SHB HEBEZEUGBAU GMBH

§ 1 Definition

The terms and expressions used in this General Terms and Conditions for the supply of goods and services written with a capital letter shall have the meaning as defined below:

“Confidential Information” means any information which is disclosed by the Seller to the Customer and any information between the Seller and the Customer and which was provenly not legally known by the Customer before the disclosure by the Seller.

“Contract” means the legal basis for the relation between the Seller and the Customer.

“Customer” means the legal entity purchasing Supplies from the Seller.

“Defect” means any non-conformity of the Supplies to the contractually agreed specifications due to incorrect design, insufficient workmanship and/or use of inadequate materials. Any non-conformity due to normal wear and tear, improper maintenance or operation and/or resulting from any other reason beyond the control of the Seller are not included in the definition of Defect.

“Gross Negligence” means any extreme deviation from the standards of ordinary care to the extent that – insofar the danger was either known or obvious - the acting or omitting person must have been aware of it, but disregarded the consequences of injury to person or property.

“Order” means the purchase order issued by the Customer accepting the offer and the Terms and Conditions of Seller.

„Supplies“ mean any goods and/or services sold and/or supplied by Seller of whatever nature including but not limited to plants, equipment, machinery, spare parts, components, raw materials or any other goods or services, etc.

“Terms and Conditions” mean the present general terms and conditions for the supply of goods and services.

“Seller” means Scheffer Krantechnik GmbH, Füchterer Straße 60, D-48336 Sassenberg, Germany or SHB Hebezeugbau GmbH, Straße der Freiheit 1, D-07318 Saalfeld.

§ 2 General

(1) These Terms and Conditions of Seller shall apply to and govern any sale of Supplies between Seller and any Customer not having its seat in Germany notwithstanding

any conflicting, contrary, or additional terms and conditions in any Order or other communication from the Customer. No such conflicting, contrary, or additional terms and conditions shall be deemed accepted by the Seller unless and until Seller expressly confirms a complete or partly acceptance in writing. The Terms and Conditions also supersede any other terms and conditions as set out in the correspondence and/or agreements between Seller and the Customer prior to a Contract.

(2) Any agreement between Seller and the Customer must be made in writing to be valid. Explanations and agreements exchanged via electronic mails are deemed to be in writing and become an integral part of a Contract.

(3) Unless otherwise agreed between the Parties in writing, the Contract will be bindingly agreed upon and become effective at date of the last signature under a Contract and the Seller receiving the advance payment of the Customer, whichever is later.

(4) The Seller shall only be bound by an offer provided that it is established on the official letterhead of the Seller. If an offer is not expressly stated as non-binding, it is only binding for a period of four (4) weeks after the date of its issuance.

§ 3 Orders

(1) The content of any Order issued by the Customer will only be binding and enforceable against the Seller if and to the extent the Seller has confirmed the Order in writing.

(2) If an Order is dependent on any permit, authorization, license and/or approval and such permit, authorization, license and/or approval is not expressly stated to be within the area of responsibility of the Seller, it shall be obtained by the Customer in due time.

(3) Any modification, change or cancellation of an Order after its acceptance by the Seller requires the prior written approval of the Seller as well as the written agreement of the consequences of such modification, change or cancellation.

§ 4 Scope of Supplies

(1) The Seller is obliged to provide solely those Supplies which are expressly included in the Contract. The Seller is entitled to unilateral changes to the Supplies, if such changes improve the Supplies or will not affect the Supplies in an essential way and do not increase the price.

(2) The prerequisite for the fulfilment of any and all obligations by the Seller out of or in connection with a Contract is the due fulfilment by the Customer of any and

all of its expressed and implied obligations out of or in connection with said Contract.

(3) The Customer is obligated to cooperate in good faith with the Seller. The obligation to cooperate includes especially the Customer to timely provide complete, correct and accurate information required by the Seller to fulfil the contractual obligations.

(4) The Customer may ask the Seller for any changes to the scope of Supplies at any time. If the Seller and the Customer agree in writing to the changes proposed by the Customer including all the consequences arising out of the changes including but not limited to price and time implications, the Seller will start with the work on the changed scope of Supplies.

(5) Any description of the Supplies not expressly included in a Contract (e.g. in a marketing documents) does not constitute any legal warranty of Seller.

§ 5 Delivery

(1) Unless otherwise agreed upon in writing, all deliveries shall be made EXW Sassenberg, Germany, according to INCOTERMS® 2020.

(2) Any risk (including but not limited to the risk of loss or damage) shall pass from the Seller to the Customer in accordance with the agreed INCOTERMS 2020®.

(3) Any agreed date of delivery is subject to:

- a. The Seller being supplied in a timely and correct manner by its suppliers;
- b. The Customer having fulfilled any and all of its obligations in due time; and
- c. All technical and commercial issues have been clarified to the Seller's satisfaction.

(4) Only the date of delivery shall be bindingly agreed between Seller and the Customer. Any other date shall be solely agreed for information and organizational purposes. Any delay of such other date shall not entitle the Customer to any kind of remedy and/or compensation.

(5) In the event of the Seller having caused a delay in delivery and after a grace period of two (2) weeks, the Customer shall be entitled to liquidated damages of zero-point five percent (0.5%) of the net price of the delayed part of the Supplies for each completed week of delay up to a maximum of five percent (5%) of the net price.

(6) If the Customer is entitled to the maximum liquidated damages, Seller shall be granted a last reasonable extension of time. If the Seller also fails to meet this final delivery date, the Customer shall be entitled to terminate the Contract in addition to the liquidated damages.

(7) Any other right or remedy of the Customer out of or in connection with delay shall be excluded, unless mandatory law provides otherwise, or the Seller acted with Gross Negligence or wilful misconduct.

(8) The Customer will become owner of the packaging and shall dispose of the packaging at its own expense.

§ 6 Export control

(1) The Seller and/or the Customer may refuse to fulfil their contractual obligations out of or in connection with an Order insofar as the fulfilment is prohibited or impaired by applicable law. The reason for such refusal shall be communicated to the Customer respectively the Seller without undue delay. Claims for damages or losses based on such a prohibition to fulfil contractual obligations are excluded unless such damages or losses have been caused at least by Gross Negligence.

(2) The Customer recognizes that the Supplies may be subject to German, European, American and/or other countries legal provisions and regulations on export control and are not allowed to be sold, leased or otherwise transferred, exported, re-exported or used for a purpose other than the agreed without an export or re-export permit of the competent authority. The Customer undertakes to comply with applicable provisions and regulations.

(3) Due to binding EU law the Seller and the Customer agree especially to the following export prohibitions:

a. The Customer shall not sell, export or re-export, directly or indirectly,
i. to the Russian Federation or for use in the Russian Federation any goods supplied under or in connection with this Contract that fall under the scope of Article 12g of Council Regulation (EU) No 833/2014; and/or

ii. to Belarus or for use in Belarus any goods supplied under or in connection with this Contract that fall under the scope of Article 8g of the Council Regulation (EU) No 765/2006.

b. The Customer shall undertake its best efforts to ensure that the purpose of §6 (3) a. is not frustrated by any third parties further down the commercial chain, including by possible resellers.

c. The Customer shall set up and maintain an adequate monitoring mechanism to detect conduct by any third parties further down the commercial chain, including by possible resellers, that would frustrate the purpose of the first sentence of §6 (3) a.

d. Any violation of §6 (3) a., b. and/or c. shall constitute a material breach of an essential element of this Contract, and the Seller shall be entitled to seek

appropriate remedies, including, but not limited to termination of this Contract and a penalty of 10% of the total value of this Contract or price of the goods exported, whichever is higher, but at least 50.000 EURO.

e. The Customer shall immediately inform the Seller about any problems in applying §6 (3) a., b. and/or c., including any relevant activities by third parties that could frustrate the purpose of §6 (3) a., b. and/or c. The Customer shall make available to the Seller information concerning the Customer's compliance with the obligations under §6 (3) a., b. and/or c. within two (2) weeks of the simple request of such information.

§ 7 Delay in delivery caused by the Customer

(1) If the Customer causes a delay in the delivery of the Supplies, the Seller shall be entitled to the following remedies:

a. Extension of delivery time: The delivery time shall be extended by a period equal to the effect of delay caused by the Customer;

b. Additional costs: The Customer shall be liable for any additional costs incurred to the Seller as a result of the delay, including but not limited to storage fees, handling charges, and any other related expenses;

c. Termination of Contract: If the delay caused by the Customer exceeds a reasonable period, the Seller shall have the right to terminate the Contract and claim damages for any losses suffered as a result of the delay.

(2) If the Seller has to store the Supplies, the first day of storage or the agreed date of delivery, whatever comes first, shall be the date of transfer of risk even if there is no delivery according to the agreed upon INCOTERMS 2020®.

§ 8 Price

(1) The price is based on EXW seat of respective Seller Germany, according to INCOTERMS® 2020, excluding packing, duties, levies and/or fees whatsoever.

(2) Unless otherwise agreed between the Parties in writing, the price is agreed in Euro (€).

(3) The price is exclusive of VAT. The Customer shall at the Seller's request provide the Seller with the necessary documentation required by the competent tax authorities as evidence of an export tax exemption. The Customer shall reimburse the Seller for any VAT levied on the Seller in the country of dispatch or the country of destination due to:

a. The agreed terms of delivery or provision of services;

b. Any failure by the Customer to duly provide the requested documentation referred to above; and/or

c. Any other circumstances attributable to the Customer.

(4) Any taxes, fees, duties and/or other charges which are levied on the Seller in connection with the performance of a Contract in the country of destination of the Supplies, if any, shall solely be borne by the Customer and the Customer shall reimburse the Seller for any such taxes, fees, duties and/or other charges which the Seller is required to pay.

§ 9 Payment terms

(1) Unless otherwise agreed, the Customer shall make the payments latest ten (10) days after issuance of the invoice without deduction. Any right of the Customer to set-off claims against claims of the Seller are excluded, unless mandatory law provides otherwise, or the Seller agrees in writing to accept the set-off.

(2) Unless agreed otherwise between the Parties in writing, the price shall be paid in the following instalments:

a. 60 % advance payment after receipt of the order confirmation,

b. 30% at the time half of the delivery period

c. 10% after the notification of readiness for dispatch and before delivery.

If the advance payment is delayed by the Customer, the Seller shall be entitled to terminate the Contract. In addition, the Seller shall at its sole discretion be entitled to adjust the delivery date and any other contractual dates according to its business situation, but at least equal to the period of delay of the payments.

(3) If not agreed otherwise between the Parties in writing, payment of the price for 2(b) and 2(c) shall be made by means of Letter of Credit. The Customer shall open an irrevocable and transferable Letter of Credit in the favour of the Seller and in the amount of the price. The Letter of Credit shall be confirmed by a first class European bank and provide for an expiry date not earlier than six (6) months from the agreed date of delivery. All bank charges shall be for the Customer's account.

§ 10 Delay of payment by the Customer

If the Seller does not receive payment from the Customer when the respective payment is due and payable and/or if the Customer is requesting to postpone the delivery for reasons that originate in the Customer's sphere of risk, the following shall apply:

a. The Seller will suspend the manufacturing and store any finished part of the supply at the cost of the Customer;

- b. The risk shall pass with suspension to the Customer, if it has not passed, yet;
- c. If the Seller encounters more cost due to the delay, the Seller shall be entitled to receive the proven additional cost from the Customer.

§ 11 Retention of title

- (1) Title to the Supplies shall not pass to the Customer until the Seller has received the payment of the price in full. Until the ownership of the Supplies passes to the Customer, the Customer shall:
 - a. Keep the Supplies properly maintained, stored and protected;
 - b. Insure the Supplies with their complete value with a reputable insurer against all risk; and
 - c. Neither sell, pledge, lease, transfer ownership (as security) or otherwise dispose of the Supplies without the Seller's prior written approval.
- (2) If the applicable property laws do not acknowledge a retention of title as provided for above or request additional preconditions (such as but not limited to a registration, etc.), the Customer shall support the Seller in order to fulfil these requirements or to establish a comparable security interest for the Seller in relation to the Supplies.
- (3) The Seller reserves the right, at any time, to claim its ownership right of full possession of the Supplies in the event of the Customer's non-payment of any single instalment. The Customer undertakes to return the Supplies at its own expense and cost on first demand to the Seller. The taking back, the assertion of the retention of title by the Seller shall not constitute the termination of the Contract, unless expressly stated by the Seller.

§ 12 Acceptance

- (1) If the Seller and the Customer agree upon a formal acceptance of the Supplies, the Seller and the Customer will agree on an acceptance procedure in writing as well as the preconditions and details of the acceptance procedure. If the Customer is using the Supplies for commercial use for a total of two (2) non-consecutive weeks without the agreed upon acceptance procedure and at the same time does not give notice of any defects preventing acceptance or the acceptance procedure cannot take place at the agreed time due to reasons not attributable to the Seller, the Supplies are deemed accepted. Other events of deemed acceptance according to applicable law remain unaffected.
- (2) Notwithstanding the foregoing, the Customer remains responsible for the examination of the Supplies

after delivery within the agreed period according to §5 (1) above.

§ 13 Warranty

- (1) The Seller warrants that at the date of delivery, respectively the date of rendering of the Supplies, the Supplies comply with Seller's technical specifications and be free of Defects.
- (2) In case of a Defect, the Seller will at its discretion either repair a Defect or replace the whole or part of the defective Supplies. The Customer shall give the Seller adequate time and opportunity as well as to grant the Seller sufficient access to the Supplies to remedy the Defect.
- (3) If the Seller fails twice to remedy a Defect, the Customer shall set a final reasonable time for the Seller to remedy the Defect. If the Seller fails to remedy the Defect also during this final period of time or in cases of an emergency, the Customer is entitled to remedy the Defect or have it remedied by a qualified third party at reasonable cost to the Seller.
- (4) The Customer shall give the Seller sufficient time to remedy and access to Supplies.
- (5) If a Defect cannot be remedied and the Defect is a material one, depriving the Customer of the functionality of the Supplies, the Customer may terminate the Contract and receive the payments made, back. If the Defect is not a material one, the Customer is entitled to reasonably reduce the price, but by no more than fifteen percent (15%) of the price.
- (6) The warranty period is twelve (12) months after delivery, but not longer than eighteen (18) months after the notification of readiness to deliver, if the delivery is delayed due to reasons not attributable to the Seller.
- (7) The Customer is not entitled to any other right or remedy out of or in connection with a Defect or a warranty other than expressly contained in herein, unless mandatory law provides otherwise, or the Seller acted with Gross Negligence or wilful misconduct.

§ 14 Liability

- (1) Notwithstanding anything to the contrary elsewhere, the Seller shall in no event and irrespective of the legal basis (including but not limited to contract, tort, misrepresentation, indemnity) be liable for loss of profit or revenue, loss of (partial) use, loss of production, loss of data, cost of capital cost of substitute goods, property damage external to the Supplies and any damage, expenditure or loss arising out of such damage, or any other special loss or damage or any punitive or indirect

and/or consequential loss or damage suffered by the Customer or any third party.

(2) The exclusion of liability shall apply whether any loss or damage or claim or expenditure was directly caused by the Seller or by any of his subcontractors (if any), suppliers, agents, advisors, consultants or employees or anyone else acting on the behalf of the Seller.

(3) Notwithstanding anything to the contrary elsewhere, there shall be no strict liability of the Seller and any liability (including but not limited to warranty obligations) must be proven to have been caused by the Seller.

(4) Any claim or right of the Customer arising out of or in connection with a Contract shall be excluded after expiration of the warranty period.

(5) Any liability of the Seller is capped at an aggregated maximum of fifty percent (50%) of the net price of a Contract.

(6) Any limitation or exclusion of liability in a Contract shall not apply in the event of:

- a. Gross Negligence or intentional misconduct attributable to Seller;
- b. bodily injury or death culpably caused by an act or omission attributable to the Seller; and/or
- c. insofar as mandatory law provides otherwise.

§ 15 Force Majeure

(1) If the Seller is not able to fulfill any of its contractual obligations due to an event or force majeure irrespective of whether the event effects the Seller directly or indirectly (e.g.: a sub-supplier is affected by an event of Force Majeure), the Seller shall be relieved from its contractual obligations and any liability for non-performance for the duration of the hindrance plus a reasonable start-up period.

(2) An event of force majeure is any event, which is beyond the reasonable control of and could not have been foreseen by the Seller before the Contract became effective. An event of Force Majeure includes but is not limited to: natural disasters, warlike events, sabotage, terrorism, strike, lockouts, weather events, epidemics, pandemics and/or traffic obstructions.

(3) If an event of Force Majeure lasts longer than two (2) months, the Seller or the Customer may terminate the Contract. In case of termination of the Contract, the Seller shall receive the full payment for any part of the Supplies finished at the time of the termination and shall hand them over to the Customer.

§ 16 Suspension

In the event that the Customer notifies the Seller of a postponement of a date due to a delay attributable to the Customer, the dates specified shall be adjusted accordingly. The Customer shall reimburse the Seller any additional direct and documented costs incurred as a result of the postponement and for any documented costs for which the Seller has to pay to its own suppliers as a result of the postponement. Any restart of the fulfilment of the obligations will commence taking the business environment of the Seller into account.

§ 17 Severability Clause

To the extent one or more provisions of these Terms and Conditions are or become void and/or unenforceable, the remaining provisions shall remain unaffected and valid. The void and/or unenforceable provision shall be replaced by a valid provision representing the economic purpose intended by the void and/or unenforceable provision as far as legally possible.

§ 18 Confidentiality

(1) The Customer shall

- a. Keep Confidential Information strictly confidential not disclose Confidential Information to any third party;
- b. Disclose Confidential Information only to such employees, representatives, suppliers, agents and/or advisors, who need to know the Confidential Information in order for the Customer to fulfil its contractual obligations;
- c. Solely use the Confidential Information only for the purpose of the Contract; and
- d. Procure that the Confidential Information is protected from any unauthorized access of any third party.

(2) The obligation to keep Confidential Information confidential shall not apply to the extent that the Customer is required by mandatory law or an enforceable court order. The Customer shall immediately notify the Seller of its duty to disclose Confidential Information.

§ 19 Applicable law and dispute resolution

(1) Any Contract is governed by Swiss substantive law. The provisions of the United Nations Convention on Contracts for the International Sale of Goods (CISG) are expressly excluded.

(2) Any dispute, controversy, or claim arising out of, or in relation to, a Contract, including regarding the validity, invalidity, breach, or termination thereof, shall be finally settled by arbitration in accordance with the Rules of Arbitration of the International Chamber of Commerce

(ICC) by one arbitrator appointed in accordance with the said Rules. The seat of the arbitration shall be Zurich, Switzerland. The arbitral proceedings shall be conducted in English.

§ 20 Miscellaneous

- (1) The Customer shall obtain the prior written consent before assigning any contractual obligation to a third party, including affiliates of the Customer.
- (2) The Seller shall be entitled to source worldwide.
- (3) A Contract can be terminated for good cause by the Seller or the Customer.
- (4) In connection with the Contract, the Seller confirms that all legal requirements for the Scope of Supplies, such as health and safety laws, accident prevention regulations and ordinances/guidelines, are known and are complied with. The Customer shall be responsible for the workplace-related instruction of the Seller's employees at the installation site.
- (5) Unless otherwise agreed, one (1) copy in German and English in accordance with the Seller standards of the operating instructions and CE declaration are provided in paper form, all other documentation in electronic form on a USB stick.

§ 21 Software Use and Copyrights

- (1) Insofar as software is part of the Supplies the following shall be applicable:
- (2) The Seller hereby grants the Customer a non-exclusive, non-transferable, revocable right to use the software solely for the operation of the Supplies. The Customer shall not sublicense, distribute, or otherwise make the software available to any third party without the prior written consent of the Seller.
- (3) The Customer agrees not to:
 - a. Copy, modify, or create derivative works of the software;
 - b. Reverse engineer, decompile, or disassemble the software;
 - c. Remove or alter any proprietary notices or labels on the software; and
 - d. Use the software in any manner that violates any applicable laws or regulations.
- (4) The Seller retains all rights, title, and interest in and to the software, including all intellectual property rights. The Customer acknowledges that the software is licensed, not sold, and that the Customer has no ownership rights in the software.
- (5) The software is provided "as is" without any warranties, express or implied, including but not limited to

warranties of merchantability, fitness for a particular purpose, and non-infringement. The Seller does not warrant that the software will be error-free or uninterrupted.

§ 22 Patents

- (1) The Seller retains all rights, title, and interest in and to any patents related to the Supplies. The Customer acknowledges that the purchase of the Supplies does not grant any ownership rights in the patents.
- (2) The Seller hereby grants the Customer a non-exclusive, non-transferable, revocable right to use the patents solely for the operation of the Supplies. The Customer shall not sublicense, distribute, or otherwise make the patents available to any third party without the prior written consent of the Seller.
- (3) The Customer agrees not to
 - a. Use the patents for any purpose other than the operation of the Supplies;
 - b. Reverse engineer, decompile, or disassemble any part of the Supplies to discover the patents;
 - c. Challenge the validity or enforceability of the patents; and
 - d. Use the patents in any manner that violates any applicable laws or regulations.
- (4) The Customer shall promptly notify the Seller of any actual or suspected infringement of the patents. The Seller shall have the sole right to take any action to enforce the patents, including filing lawsuits or negotiating settlements.

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