

## General Terms and Conditions of Aebi Schmidt International AG

### 1. Scope

- 1.1. The following terms and conditions shall apply exclusively to all - including future - sales, deliveries and services, unless otherwise agreed in writing. With the exception of clauses 2.1 and 3.3, the written form shall be deemed to have been complied with exclusively by legally valid signature of the parties and not by fax or e-mail.
- 1.2. Our customers' terms and conditions of business do not apply, even if we do not expressly contradict them in writing.

### 2. Formation of the contract

- 2.1. Our offers are non-binding. The customer is bound to his order for a period of 6 weeks from receipt by us, unless otherwise stated in the order. Contracts are only concluded by our written order confirmation or delivery. The written form shall also be deemed to have been complied with by fax or e-mail.
- 2.2. Verbal collateral agreements or undertakings by our employees which go beyond the content of the written contract or which amend these terms and conditions to our disadvantage shall only be effective after written confirmation.
- 2.3. We reserve the property rights and copyrights to illustrations, drawings, calculations and other documents; they may not be made accessible to third parties.
- 2.4. Customary deviations from our specifications regarding dimensions, weights, condition and quality are reserved and do not constitute defects.
- 2.5. We reserve the right to make design changes that neither restrict nor alter the intended use and do not constitute defects.
- 2.6. Our product descriptions do not constitute guarantees.

### 3. Prices, payments, default of payment

- 3.1. Unless otherwise agreed, our prices are quoted in accordance with the FCA (Incoterms® 2020) of the shipping point specified in the order confirmation without packaging, net in local currency, plus the value added tax applicable at the time of invoicing. According to FCA, the customer is in particular obliged to pay all costs for freight, insurance, export, transit and import permits, taxes, levies, fees, customs duties and other costs in connection with the contract. If we are liable to pay such costs in advance, the customer shall reimburse them.
- 3.2. In the absence of a special agreement, the agreed price is due on delivery.
- 3.3. Cash discount shall only be granted after written agreement. The written form shall also be deemed to have been complied with by fax or e-mail.
- 3.4. In the case of delivery periods of more than 2 months, we shall be entitled to increase or reduce the agreed prices accordingly insofar as significant changes in wage, salary, material, energy or raw material costs have occurred after conclusion of the contract and we are not responsible for these changes.
- 3.5. The invoice amount is to be paid to our bank account within 30 days after receipt of the invoice. After expiry of the payment deadline, the customer shall be in default without reminder. The irrevocable receipt of payment on our account is decisive for the timeliness of payment.
- 3.6. If instalment payments have been agreed and the buyer is in default with an instalment in whole or in part, the respective remaining amount, default interest and costs shall be due for immediate payment.
- 3.7. Any set-off is excluded. The customer may not arbitrarily reduce or defer or set off any payments, in particular not

because of complaints, claims or counterclaims of the customer not recognised by us.

- 3.8. In the event of default in payment, we shall charge interest from the due date in the amount of 10%. In addition, in the event of late payment, we are entitled to claim a lump sum for the internal processing of the late payment in the amount of EURO 50 (equivalent in local currency).
- 3.9. Payments are always offset against the oldest receivables and interest claims.
- 3.10. A discount for new orders is not possible for existing late payments for other orders.
- 3.11. If justified doubts arise as to the customer's ability to pay or if an application is made to open debt and bankruptcy proceedings against the customer, we shall be entitled to grant the customer a reasonable period of time in which the customer must, at our discretion, either make an advance payment or provide security concurrently with our performance. If the customer does not comply with this within the set period, we are entitled to withdraw from the part of the delivery contract that has not yet been fulfilled.

### 4. Delivery / delivery period

- 4.1. Unless we have designated delivery periods or delivery dates as binding in writing, these are non-binding and do not entitle the customer to withdraw from the contract in the event of non-compliance.
- 4.2. Delivery shall be made in accordance with FCA's shipping point Incoterms® 2020 stated in the order confirmation.
- 4.3. Unless otherwise agreed in writing, we shall determine the mode of dispatch.
- 4.4. 6 weeks after exceeding a non-binding delivery date or a non-binding delivery period, the customer may request us in writing to deliver within a reasonable period. We shall be in default upon expiry of the reasonable period.
- 4.5. The delivery period begins with the receipt of the order confirmation, but not before clarification of all details of the order execution and technical questions, as well as the receipt of an agreed down payment or payment security.
- 4.6. The delivery deadline or delivery date shall be deemed to have been met if the goods have been loaded onto the means of transport provided by the customer by the deadline or delivery date. If dispatch is delayed through no fault of our own, the delivery deadline shall be deemed to have been met upon notification of readiness for dispatch.
- 4.7. Change requests from the customer extend the delivery period until we have checked their feasibility and by the time required to implement the new specifications in production. If an ongoing production is interrupted by the change request, we may bring forward and complete other orders. We are not obliged to keep production capacities free during the delay.
- 4.8. In the event of a delay in delivery pursuant to section 4.4, the customer shall be entitled to withdraw from the contract. Further claims against us are excluded.
- 4.9. If the shipment is delayed due to circumstances for which we are not responsible,
  - the risk shall pass to the customer upon notification of readiness for dispatch.
  - we shall store the goods with us or with third parties at the customer's expense.
  - we charge, in the case of storage in our works, at least 0.5 % of the invoice amount of the stored delivery per month.
  - the customer shall in particular bear the costs and risks resulting from the failure to provide timely instructions

and to complete necessary formalities incumbent upon him - such as the procurement of import licences.

- 4.10. Unforeseen, unavoidable events for which we are not responsible (e.g. force majeure, operational disruptions, difficulties in procuring materials and energy, transport delays, shortages of labour, energy and raw materials, official measures and difficulties in obtaining permits, e.g. import and export licences, embargoes, strikes and lockouts, etc.) shall extend the delivery period by the duration of the disruption and its effects. This shall also apply if the disruption occurs at our sub-supplier or during an existing delay. If the disruption is not only of temporary duration, both contracting parties shall be entitled to withdraw from the contract. Claims for damages are excluded in the cases mentioned in this clause 4.9.
- 4.11. Partial deliveries are permissible to a reasonable extent for the customer.
- 4.12. Our delivery obligation is subject to the condition of complete, timely and correct delivery (in particular with primary material) by our suppliers. In the event of late or defective delivery by our suppliers, we reserve the right to withdraw from the contract.

## 5. Transfer of benefit and risk

- 5.1. In the absence of a special agreement, benefit and risk shall pass to the customer in accordance with the shipping point specified by FCA in the order confirmation (Incoterms® 2020).
- 5.2. If dispatch is delayed through no fault of our own, the risk shall pass as soon as we have notified the customer that the goods are ready for dispatch, even if partial deliveries are made or we have exceptionally assumed other services, e.g. the shipping costs or delivery, including by our own transport personnel.
- 5.3. At the customer's request, we will insure the shipment against transport damage at the customer's expense.

## 6. Retention of title

- 6.1. We retain title to the goods until all claims (including interest and costs) have been settled. We are entitled to have the retention of title entered in the relevant register at the customer's expense.
- 6.2. Until the purchase price has been paid in full, the customer may not sell, pledge or assign the goods as security. In the event of any access to the goods by third parties or in the event of an application for the opening of bankruptcy proceedings, the customer is obliged to notify the third party and the debt enforcement/bankruptcy office immediately of the retention of title and to inform us. Insofar as the goods are vehicles to be registered, the customer hereby authorises the competent road traffic office to enter the entry "change of owner prohibited" at our request.
- 6.3. We are entitled to collect the goods subject to retention of title in the event of default in payment or deterioration of the customer's creditworthiness at any time and at any place, unless the customer provides suitable additional collateral recognised by us. We are entitled to realise the goods and to set off the proceeds against our outstanding claims against the customer without this releasing the customer from the performance of the contract or entitling him to claim damages for non-performance.

## 7. Warranty

- 7.1. The customer shall inspect the goods immediately upon receipt within a reasonable period of time and notify us in writing of any obvious defects without delay. If the customer fails to do so, the deliveries and services shall be deemed approved. In the event of hidden defects discovered at a

later date, the customer shall also be obliged to give notice of defects immediately.

- 7.2. The notification of defects must be made in writing and must precisely describe the type and extent of the defect. If these deadlines are exceeded, all claims and rights arising from liability for defects for these defects shall expire.
- 7.3. In the case of properly raised and justified notices of defects, we shall, at our discretion, either deliver a replacement or repair the goods.
- 7.4. We must be given the appropriate time and opportunity to carry out the necessary rectification or replacement delivery after arranging a date. We reserve the right to have the rectification carried out in the workshop we deem suitable.
- 7.5. Should repeated rectifications also definitely fail, the customer may in principle demand, at his discretion, a reduction of the remuneration (abatement) corresponding to the reduction in value of the goods or cancellation of the contract (rescission). However, rescission is only possible in the case of significant defects which make the continuation of the contract unreasonable. Further rights in respect of defects, in particular the assertion of claims for damages, are excluded.
- 7.6. Costs of rectification arising from the fact that the purchased goods were taken to a place other than the customer's commercial establishment after delivery shall not be borne.
- 7.7. Replaced items shall become our property.
- 7.8. The warranty is excluded insofar as there is no defect in the legal sense, in particular in the following cases:
- Incorrect operation or use of unsuitable operating materials or wearing parts;
  - Overstraining and improper use of the equipment and machines;
  - Non-compliance with operating instructions, assembly guidelines, service, maintenance and repair instructions;
  - Design or material changes at the request of the customer;
  - changes or conversions by the customer or third parties without our express written consent;
  - Faulty assembly or commissioning by the customer or third parties;
  - Natural wear and tear (e.g. sweeping bristles);
  - Installation of parts or products from other manufacturers that are not listed in the operating instructions or have not been expressly approved by us in writing.
- 7.9. Insofar as the defect has been caused by an essential third-party product, we are entitled to limit our liability initially to the assignment of the defect liability claims and rights to which we are entitled against the supplier of this third-party product.
- 7.10. In the case of the sale of used equipment and machines, a claim to rectification, reduction and cancellation is excluded unless we are liable for personal injury, have breached our obligations intentionally or with gross negligence or have fraudulently concealed the defect, or insofar as we have assumed a guarantee going beyond this or a longer statutory period is mandatory.
- 7.11. The customer must check and compare the usability and suitability of the goods on his own responsibility. We cannot accept any liability for damage caused by a lack of inspection with regard to their use or suitability.
- 7.12. The infringement of third party rights only constitutes a defect if these property rights exist in Switzerland.

## 8. Liability

- 8.1. We shall be liable in the event of intent or gross negligence, fraudulent concealment of defects, injury to life, limb or health or under the Product Liability Act in accordance with

the law. In the event of an assumed guarantee, we shall be liable in accordance with any guarantee provisions.

- 8.2. Liability for slight negligence is excluded.
- 8.3. We shall not be liable for breaches of duty by our suppliers, subcontractors and vicarious agents.
- 8.4. Claims of the customer due to defects shall become statute-barred after 12 months from the transfer of risk, other claims after 12 months from the statutory commencement of the limitation period.

#### **9. Export controls and sanctions**

- 9.1. The customer undertakes to be aware of and fully comply with all national and international laws, regulations, sanctions and embargoes relating to export and re-export, as amended, including, but not limited to, restrictions in connection with domestic transactions, brokerage services and other prohibitions on circumvention which directly or indirectly affect its activities (including the resale of our goods).
- 9.2. 'No Russia' clause
  - 9.2.1. The customer may not, directly or indirectly, sell, export or re-export into the Russian Federation or for use in the Russian Federation any goods delivered within the framework of or in connection with this contract that fall within the scope of Article 12g of Council Regulation (EU) No. 833/2014.
  - 9.2.2. The customer shall make every effort to ensure that the purpose of paragraph (1) is not frustrated by third parties in the wider distribution chain, including possible resellers.
  - 9.2.3. The customer must establish and maintain appropriate monitoring to detect conduct by third parties in the wider distribution chain, including possible resellers, that would frustrate the purpose of paragraph (1).
  - 9.2.4. Any breach of paragraphs (1), (2) or (3) constitutes a significant breach of an essential element of the contracts and we shall be entitled to seek appropriate remedies, including but not limited to:
    - i. termination of the contracts and any other contractual agreements; and
    - ii. a contractual penalty to the amount of 100% of the total value of this contract or the price of the exported goods, whichever value is higher.
  - 9.2.5. The customer is obliged to inform us without delay of any issues with the application of paragraphs (1), (2) or (3), including any relevant third-party activities that may frustrate the purpose of paragraph (1). The customer shall provide us with all information regarding compliance with the obligations under paragraphs (1), (2) and (3) within two weeks of our request.

#### **10. Place of performance, place of jurisdiction and applicable law**

- 10.1. The place of performance for all services arising from the contracts with the customer is the shipping point specified in the order confirmation.
- 10.2. The place of jurisdiction for all disputes arising from the delivery contract is the business location of Aebi Schmidt. However, we are also entitled to take legal action at the customer's place of business.
- 10.3. Swiss law applies to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG) of 11.04.1980.

#### **Aebi Schmidt International AG**

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