

# General Conditions of Supply

## 1. Scope

For all deliveries and work of the DAICOS AG company, following conditions are binding. General conditions of the purchaser which are inconsistent to these General Conditions of Supply as well as modifications and verbal agreements are valid only if we confirm acceptance in writing. In case of special arrangements or invalidity of certain agreements the general conditions are binding.

## 2. Offer and conclusion of contract

2.1 Offers which do not stipulate an acceptance date are not binding.

2.2 The contract is deemed concluded when, on receipt of an order, we confirm its acceptance in writing. Verbal agreements are valid if they are written confirmed.

## 3. Scope and Execution of Contract

The scope and execution of contract shall be as specified in our offer. Material or work not expressly referred therein and subsequent modifications made by the purchaser shall be charged separately.

## 4. Technical Documents

4.1 Our technical documents such as drawings, descriptions, illustrations, as well as all weight data shall serve as an approximate indication only, provided they have not expressly been specified as binding. We reserve the right to make any necessary modifications and adjustments according to the actual level of technology.

4.2 Technical documents and offers are to be treated in confidence by the purchaser.

4.3 All documents remain our exclusive property and - if they do not result in an order - shall be returned to us upon our request.

## 5. Testing of Raw Materials

5.1 Each of our systems is produced with respect on its application. Rawmaterials which have to be processed can be tested by the purchaser in co-operation with our research group. Such additional expenses are charged at cost price and shall be borne by the purchaser. Offer and specifications of the systems are based on these results.

5.2 Guarantee is given only for the quality of our delivery according our guarantee conditions (fig.16). We do not guarantee neither for the properties of the rawmaterials which have to be processed nor for the endproduct.

5.3 If the purchaser undertakes alterations or modifications to the rawmaterials which exceed the limits of tolerance specified in the product pass, we shall not be liable for any kind of loss of efficiency, higher wear and tear or failure of the system.

## 6 Regulations in Force at Destination

6.1 The purchaser must inform us of all laws, governmental and other regulations which have to be observed during the execution of contract; this applies particularly to import restrictions, safety precautions, accident prevention and to environmental rules.

6.2 The purchaser is liable for the industrial safety of the system at destination.

## 7. Price

7.1 The prices in the offer and in the confirmation of order are net amounts which shall be paid without any deductions whatsoever. Unless otherwise agreed, our prices are net ex factory excluding packing, in freely available Swiss francs. All additional costs (such as carriage, insurance, import, export and transit permits, certifications, taxes, charges and fees whatsoever shall be borne by the purchaser. If we have included in our offer or contract price or indicated in our offer or confirmation of order the charges for packing, carriage, insurance and other additional costs, we reserve the right to adjust our prices should the tariffs be modified.

7.2 Bank charges due to credits, bank guarantees, collections, conversion of documents shall be charged to the purchaser.

7.3 The prices are based on the costprice at the time of the conclusion of contract. We reserve the right to adjust the prices provided that:

- the delivery time is subsequently extended for one of the reason stated in fig. 10.2.
- the extent of the delivery or work has changed
- the wagherates or the material costs have substantially increased in the meantime

- the goods or execution have been changed because the information submitted to us by the purchaser did not correspond to the actual circumstances or was incomplete.

## 8. Terms of payment

8.1 Payments shall be made in Switzerland by the purchaser in accordance with the conditions with no deductions for cash discount, charges, fees, taxes etc.

8.2 There will be no interest on payments on account. In case of a contract violation by the purchaser or a cancellation of the order we reserve the right to use the payments on account to cover the loss under reservation of our compensation claims.

8.3 The due dates of payment shall also be observed if transport, delivery, assembly, starting or acceptance of the delivery is delayed or prevented by circumstances beyond our control. It is inadmissible to withhold or reduce payments on account of complaints, claims or counterclaims not accepted by us. Payments shall also be made if subsequent work on the goods is found to be necessary or if unimportant parts are missing which do not prevent the goods from being used.

8.4 If the purchaser does not observe the agreed due dates of payment he shall without formal notice be liable to pay interest on overdue amounts from the due date at a rate depending on the usual interest rate for short term bank credits prevailing at the purchaser's domicile, provided that a higher interest rate has not been agreed. Payment of such interest rates does not release the purchaser from his obligation to make payments on the agreed dates. In case of delay of payment we reserve the right to withhold delivery. If – in credit transactions – the purchaser fails to meet the payments by installment on the agreed dates, the whole residual dept is due immediately.

## 9. Property right

9.1 The goods supplied by us remain our property until full payment has been received. The purchaser has no right to sell nor pawn it at that time. He undertakes to co-operate in taking any measures necessary for the protection of our property (property insurance included). Until full payment has been received, the purchaser has to assign his claims against the insurer to us. The purchaser must inform the insurer thereof.

9.2 In case of delay in payment, we reserve the right to withdraw our delivery. Expenses and damage resulting therefrom shall be charged to the purchaser. The use of the right of withdrawal shall not result in a termination of contract.

## 10. Delivery Time

10.1 The delivery time commences as soon as the following conditions have been fulfilled:

- the contract has been concluded
- all official formalities such as import and payment permits have been obtained
- payments due with the confirmation of order have been made, any agreed securities furnished
- we dispose of all documents and information necessary for delivery

The delivery time shall be deemed duly observed if the goods are ready for dispatch in the factory by that time.

10.2 The delivery time shall be reasonably extended:

- if the information needed to execute the order does not reach us on time or if the customer subsequently makes changes and therewith delays delivery
- in hindrances occur – whether they arise at ours, the purchaser's or an important third party's domicile – which despite our due care, we can not avoid. Such hindrances may be i.e. natural catastrophes, accidents, epidemics, mobilization, war, riots, rebellion, strikes, picketing, lock-outs and other kinds of occurrences which are internationally recognized as such as serious breakdowns (emergency loss, accidents, power shortage), transport difficulties, delayed or deficient delivery of necessary raw materials and parts, official measures etc.
- if the work not to be carried out by us is behind schedule or if the purchaser is late in fulfilling his contractual obligations, in particular if he fails to observe the terms of payment.

10.3 If we fail to observe the agreed dates of delivery due to hindrances mentioned above, we will inform the purchaser thereof and of the time when normal conditions have been reestablished.

10.4 In the event of late delivery, the purchaser has no right to claim indemnity nor to cancel the contract.

10.5 We have the right to execute and charge part deliveries.

#### **11. Testing and Acceptance of Goods**

11.1 Testing of the goods before shipment is carried out in accordance with our test procedures and at our cost. Additional tests shall be agreed specifically on conclusion of contract and shall be charged to the purchaser.

11.2 Acceptance of goods is normally carried out at our factory; the test report has to be signed.

11.3 The purchaser shall examine the goods at destination within 30 days and inform us immediately in writing of any deficiencies for which we are responsible according to our contractual obligations. If the purchaser omits to do this, the goods shall be deemed to have been accepted.

11.4 When the goods are accepted, we are released from our obligations with the exception of the guarantee mentioned in fig. 16 and any other guarantee obligations which have been specifically agreed.

11.5 Commissioning shall be whenever possible carried out in cooperation with one of our experts. All costs due to preliminary tests and examinations shall be charged to the purchaser; furthermore, the purchaser shall provide the materials to be processed as well as qualified staff and this free of charge. The supplier shall have the opportunity to examine the final commissioning. The purchaser is liable for the proper execution of tests including structural work. If it is found from the before-mentioned tests that the goods do not fulfill the terms of contract the purchaser shall without delay make a suitable opportunity available to us to remedy any deficiency.

11.6 The purchaser shall have no other rights in case of deficient delivery, in particular to claim damages and to cancel the contract.

#### **12. Packing**

Packing shall be charged separately and is not returnable. However, if it is declared as supplier's property, it shall be returned carriage paid.

#### **13. Transfer of Use and Passing of Risk**

The benefit and the risk of the goods are transferred to the purchaser not later than the date of their leaving the supplier's factory, even if delivery is carriage paid, fob, c&f, cif or under similar conditions. If dispatch is delayed or prevented by circumstances beyond our control, the goods will be stored at the purchaser's expense and risk.

#### **14. Transport and Insurance**

14.1 Special request concerning forwarding and insurance must be made known to us on conclusion of the contract. If there is no contractual agreement or if we do not obtain instructions on transport and insurance at the agreed due dates, we reserve the right to determine the modus of dispatch at our discretion.

14.2 It is up to the purchaser to take out insurance against damage of any kind; even if insurance cover is arranged by us, it shall be taken out on behalf of the purchaser and at his expense and risk. Complaints concerning transport shall be submitted by the purchaser to the last carrier on receipt of the goods or the shipping documents. At the same time, the purchaser must inform us thereof immediately.

14.3 If, in case of unforeseen circumstances, we consider it necessary to divert forwarding, all costs arising therefrom shall be charged to the purchaser.

#### **15. Assembly**

If we undertake the assembly of the goods, costs and charges have to be paid by the purchaser. Agreements concerning the assembly, if any, will be negotiated separately.

#### **16. Guarantee**

16.1 During the guarantee period we undertake, upon written request of the purchaser, to repair or replace at our discretion and as soon as possible any parts of the goods delivered which can be proved to be damaged or unfit due to bad material, faulty design or poor workmanship. Replaced parts shall become our property and have to be returned on request.

16.2 We shall only bear the costs of repairing or replacing the defective parts in our factory. If the purchaser does not insist on air

cargo, we also bear the costs of transporting the parts from the charges, the conditions stated in fig. 7.1. and 13. shall apply.

16.3 The purchaser shall have no other rights, in particular claims for damages and cancellation of the contract.

16.4 The guarantee period is 12 months or 2000 operationhours. It begins when the goods are ready for dispatch or if we undertake assembly when it is completed. If dispatch, assembly or commissioning are delayed for reasons beyond our control, the guarantee period shall end not later than 18 months after the goods are ready for dispatch. For replaced parts, the guarantee period begins anew but without interrupting or extending the guarantee period of the main goods.

16.5 The guarantee does not cover damages resulting from normal wear and tear, and damages to reasons beyond our control such as improper maintenance, failure to observe the operating instructions, excessive loading, the use of unsuitable material, chemical or electrolytic influences, building or assembly work not undertaken by us, improper lubrication, delayed or incorrect overhauling of machines and parts or damages resulting from incomplete or incorrect information by the purchaser, i.e. the processing of raw materials (see fig. 5).

16.6 The guarantee expires if the purchaser or a third party undertakes alterations or repairs to the goods without our written consent, or if the purchaser does not immediately take appropriate steps to prevent any damage from becoming more serious and to enable us to rectify the defect in due time.

16.7 If on expiry of the guarantee period the purchaser has made no specific written claims under the terms of guarantee, we are released from our guarantee obligations.

16.8 Guarantee claims can be raised only if the purchaser has fulfilled his contractual obligations, in particular his obligations to make payment on the agreed dates.

#### **17. Liability**

We undertake to carry out the order in accordance with the terms of contract and to fulfill our guarantee obligations. We shall not be liable to the purchaser for any further claims.

#### **18. Safety of Operation**

18.1 The purchaser undertakes to observe all operating instructions and safety regulations and to inform the staff thereof in order to ensure safe operation of the systems.

18.2 Existing regulations concerning safety and accident prevention shall not be removed. In case of damage, they have to be replaced immediately.

18.3 Technical alterations to the goods shall not be undertaken without our written consent. If the purchaser omits to observe the agreed conditions, we are released from any further claims; this particularly applies to accidents due to technical changes and additions.

18.4 In case of an accident caused by one of our articles or if the operation of the system turns out to be dangerous, the purchaser must immediately inform us thereof.

#### **19. Place of Performance**

The place of performance is Switzerland, both, for us and for the purchaser, even if delivery is not made "ex factory". If we also undertake assembly, the place of assembly shall be deemed the place of performance only in respect of our assembly obligations.

#### **20. Jurisdiction and Law Applicable**

20.1 The place of jurisdiction is Switzerland, both, for us and for the purchaser. However, we also reserve the right to appeal to the competent court in the purchaser's country.

20.2 The contract shall be governed by Swiss law.