

# Eugen Seitz AG – General Terms and Conditions of Supply

## 1 General

1.1 Any quotation made by Eugen Seitz AG (**Supplier**) and any subsequent contract (**Contract**) for the supply of the Supplier's goods (**Goods**) shall be governed exclusively by these General Terms and Conditions of Supply (**Conditions**) to the entire exclusion of all other terms or conditions unless otherwise agreed in writing by the Supplier. A purchase order for Goods (**Order**) from a buyer (**Buyer**) shall constitute an offer from the Buyer to purchase the Goods subject to these Conditions.

1.2 Unless otherwise agreed in writing, quotations shall be considered as invitation to treat and shall in any case lapse after 30 days from their date. Orders shall not be binding on the Supplier until the Supplier accepts such Orders and notifies the Buyer in writing of such acceptance. The Supplier will only accept an Order when a written acknowledgement is issued or (if earlier) the Goods are delivered to the Buyer.

1.3 Any variation to these Conditions shall have no effect unless expressly agreed in writing by the Supplier.

1.4 If any provision of these Conditions is deemed invalid or unenforceable, the remaining provisions shall remain valid and enforceable to the fullest extent permitted by law and replaced with a valid and enforceable provision that comes closest to the original intent of these Conditions.

## 2 Specification

The Buyer is responsible for satisfying itself as to the suitability of the Goods for the Buyer's application. The Supplier shall not be bound by any statement concerning the scope of supply, performance or characteristics of the Goods unless expressly incorporated in the Contract, although nothing in these Conditions shall be construed as attempting to limit either party's liability for fraud or fraudulent misrepresentation. Descriptions and illustrations contained in the Supplier's catalogues, price lists

and other advertisement material are intended merely to present a general description of the Goods described therein and none of these shall form part of the Contract unless expressly incorporated therein.

## 3 Intellectual Property Rights

No title to any of the Supplier's industrial or intellectual property or to industrial or intellectual property in the Goods supplied is transferred to the Buyer under these Conditions or a Contract (where intellectual property includes but is not limited to patents, design rights, copyrights, trademarks, database rights, know-how and proprietary information). No designs, drawings or Goods supplied by the Supplier shall be reproduced, disclosed, copied or reverse engineered without the Supplier's prior written permission.

## 4 Confidential information

For the purpose of this clause, Confidential Information means the disclosing party's information in any form whether oral, documentary, magnetic, electronic, graphic or digitised; relating to the disclosing party's business and including information relating to patents, trademarks, registered/unregistered rights, design rights, copyright formulations, engineering drawings, specifications, data, know-how, inventions, models, sample components, formulae, manufacturing methods, analytical and quality control methods, or any other business or financial information. The receiving party will not divulge or communicate to any person without prior written consent of the disclosing party any Confidential Information and shall not use the Confidential Information for any purpose other than the manufacture and supply of the Goods under these Conditions. The obligation of confidentiality will apply for a period of 5 years upon disclosure but will cease to apply to information that becomes public knowledge through no fault of the receiving party or is disclosed subject to a legal or regulatory requirement. Each disclosing party shall have the right, upon the end of the Contract, to request the receiving party to return all Confidential Information of the disclosing party in its possession.

## 5 Prices

5.1 All prices are quoted strictly net Ex-Works, excluding Swiss Value Added Tax (VAT), where applicable, and excluding packing, without any deduction whatsoever.

5.2 The Supplier reserves the right at any time up to 30 days after the date of an Order to increase the price of the Order by a percentage equivalent to the percentage rise in the cost of materials. The Supplier shall notify the Buyer in writing of such a price increase. The Buyer will be entitled to cancel the Order by written notice to the Supplier within 30 working days of the date of the Supplier's notice of the price increase. In the absence of such notice, the price increase will be binding on the Buyer.

## 6 Terms of Payment

6.1 Payments shall be made strictly net and wire-transferred into the Supplier's bank account, without any deduction for cash discounts, expenses, taxes, levies, fees, duties and suchlike.

6.2 Unless agreed otherwise in writing, payments must be made within 30 days of the invoice date.

6.3 If any amount due and payable to the Supplier under a Contract is overdue for reasons for which the Supplier is not responsible, the Supplier may, without prejudice to any other right it may have and at its own option, either suspend pending deliveries or terminate the Contract and in addition charge the Buyer simple interest on amounts overdue at an annual rate of 5% during the period that any such amount is overdue.

## 7 Reservation of Title

7.1 Legal title to and beneficial ownership of the Goods (except for software) shall pass to the Buyer upon receipt by the Supplier of all sums due from the Buyer in respect of the Goods. Upon entering into a Contract, the Buyer, if based in Switzerland, shall effectively authorize the Supplier to enter the reservation of title into the official register and to comply with all necessary formalities in this regard at the Buyer's expense.

7.2 Notwithstanding the above, the risk of loss or damage of the Goods shall pass to the Buyer upon delivery. The Buyer shall maintain the Goods in satisfactory condition and keep them adequately insured on the Supplier's behalf for their full price and on request provide evidence of such insurance.

7.3 Until the passing of title in the Goods to the Buyer, the Buyer shall hold the Goods as bailee (Besitzmittler) for the Supplier and clearly identify them as belonging to the Supplier. If the Buyer is in default of payment or otherwise violates the Contract and provided that the Supplier has executed his right of rescission of a Contract, the Supplier may at any time until the passing of title in the Goods to the Buyer require the return of the Goods delivered under such Contract. If this requirement is not complied within a period of 8 days, the Supplier may (without prejudice any other rights and remedies) repossess the Goods.

## 8 Term of Delivery

8.1 Unless agreed otherwise in writing, deliveries shall be made "Free Carrier" (FCA Wetzikon), according to the latest applicable version of the Incoterms. The Supplier shall be entitled to make partial deliveries.

8.2 Dates cited for delivery shall be approximate only unless fixed deadlines are agreed in writing in connection with a fixed-date trading transaction. If no deadline is specified for the delivery, then the delivery shall be made within a reasonable time.

8.3 Delivery dates shall be deemed extended if, amongst others, (a) the Buyer delays the provision of required information including but not limited to export control documents or requires the Supplier to implement changes or modifications with respect to the Goods or other terms and conditions of the Contract, (b) the Buyer or its subcontractors are behind schedule or otherwise late with activities required for the supply of Goods under a Contract, (c) the Buyer fails to make payment on time, or (d) the Supplier's delivery obligation is prevented, restricted or delayed by any act of God, act or omission of government, war, hostilities, acts of terrorism, epidemic or pandemic events including lockdowns, industrial dispute, failure or delay in source of supply of materials or equipment, fire, explosion, accident or breakdown of essential machinery or equipment or by any cause (whether similar or not to any of the above events) beyond the reasonable control of the Supplier.

## 9 Inspection and Acceptance of Goods

9.1 The Supplier shall inspect the Goods to a reasonable extent before dispatch.

9.2 The Buyer shall inspect the Goods within 5 days upon delivery and give the Supplier immediate written notice of any defect. If the Buyer fails to do so, the Goods shall be deemed to have been accepted.

9.3 Upon receipt of a notification of defect, the Supplier shall rectify the Goods or provide replacement Goods as soon as reasonably possible.

9.4 Any additional inspection or acceptance procedure, if required, requires the prior written consent of the Supplier and shall be subject to a separate agreement.

## 10 Warranty

10.1 The Supplier warrants that the Goods supplied shall, under Proper Use, be free from defects in design, material and workmanship and conform to the specification in the Contract for a period of 12 months from delivery or 6 months in the event of a multiple shift system (Warranty Period). Proper Use means storage, installation, commissioning operation and maintenance in accordance with the Supplier's specifications and good industry practice.

10.2 The Supplier's obligation under this warranty shall be limited to making good by repair or replacement at the Supplier's option any defect in the Goods which appears before the expiration of the Warranty Period or, at the Supplier's option, reimbursing the price received by the Supplier for the Goods. Where the Supplier opts to repair the Goods, the Buyer shall return the Goods to be repaired to the Supplier's premises at its own cost. In respect of items which have been repaired or replaced by the Supplier hereunder, the Supplier shall guarantee such items up to the end of the original Warranty Period.

10.3 The Supplier obligation is subject to (a) the Supplier being given notice by the Buyer of the defect within 5 days of the delivery date, or when the defect was not apparent on reasonable inspection, promptly after the discovery of the defect, and (b) the Supplier being given a reasonable opportunity after receiving notice of the defect to examine the Goods. The Supplier shall have no liability for the costs of dismantling, transportation, re-assembly, and re-testing of any of the Goods affected under this warranty.

10.4 The Supplier's obligation shall not extend to failure caused by wear and tear, misuse, neglect, or repairs or modifications to the Goods which have been made without the Supplier's written approval, or result from designs and specifications provided by the Buyer, instructions given by the Buyer, software and firmware programs developed by the Buyer and used in or with the Goods and more generally by defects for which the Buyer is to blame or which are caused by activities performed by the Buyer without the Supplier's written consent.

10.5 THIS WARRANTY IS IN PLACE OF AND EXCLUDES TO THE FULLEST EXTENT PERMITTED BY LAW, ALL OTHER WARRANTIES AND CONDITIONS, WHETHER ORAL, WRITTEN, STATUTORY, EXPRESS, OR IMPLIED. THE SUPPLIER'S LIABILITIES AND THE BUYER'S REMEDIES IN RESPECT OF DEFECTS IN THE GOODS AND ANY DAMAGE TO THE GOODS RESULTING THEREFROM WHETHER ARISING FROM BREACH OF CONTRACT, STATUTORY DUTY, WARRANTY, NEGLIGENCE OR OTHERWISE ARE SOLELY AND EXCLUSIVELY AS STATED IN THIS WARRANTY CLAUSE, AND THE SUPPLIER SHALL HAVE NO LIABILITY OF ANY KIND FOR ANY SUCH DEFECTS OR DAMAGES WHICH APPEAR AFTER THE EXPIRY OF THE WARRANTY PERIOD DESCRIBED ABOVE.

## 11 Limitation of Liability

11.1 Subject to clause 11.2, the Supplier shall not in any circumstances be liable for any loss of use, production, profit, business, contracts, revenues or anticipated savings, any increase in operating costs, or any indirect or consequential loss or damage whatsoever.

11.2 No limitation or exclusion contained in these Conditions shall apply in cases of fraud or fraudulent misrepresentation or in cases of death or personal injury caused by the negligence of the Supplier, or for any other matter for which it would be illegal to exclude or to attempt to exclude the Supplier's liability.

11.3 Except as provided under clause 11.2, notwithstanding anything else in these Conditions or otherwise, the total aggregate liability of the Supplier to the Buyer under these Conditions in any one calendar year will not in any event exceed the lower of an amount equal to 50% of the value of the Goods delivered to the Buyer in such calendar year or CHF 250'000.

## 12 Export Control

The Buyer shall provide all information and documents required for the transfer, import, or export of the Goods including subsequent transfers, imports, or exports (e.g., end-user statements). If the Buyer fails to provide the necessary documents or information on time, the Supplier shall be entitled to terminate the Contract with immediate effect without any liability whatsoever. If the Buyer transfers, exports or imports the Goods on its own, the Buyer shall comply with all Swiss and European regulations, as well as any other applicable national or international export control regulations, embargoes, and other sanctions and keep the Supplier indemnified against all claims, losses, damages, liabilities, costs, and expenses, including reasonable attorneys' fees, arising out of any non-compliance.

### **13 Applicable Law and Jurisdiction**

13.1 These Conditions and any Contract entered into hereunder shall be governed by and construed in accordance with the laws of Switzerland without regard to its conflict of laws provisions. The United Nations' Convention on Contracts for the International Sale of Goods' signed in Vienna in 1980 shall not apply.

13.2 Any dispute arising out of or in connection with these Conditions or any Contract entered into hereunder including its interpretation, validity, performance, or termination, shall be subject to the jurisdiction of the competent courts of Zurich, Switzerland.

Wetzikon, August 2023