

**General Terms and Conditions of Sale and Delivery for International Business  
of STS-Spezial-Transformatoren Stockach GmbH & Co. KG,  
78333 Stockach, Germany**

**1. General provisions, scope**

- 1.1 All current and future quotations and other services provided by the supplier to persons named under 1.2 hereunder are exclusively subject to the present General Terms and Conditions of Sale and Delivery for International Business. Other general terms and conditions which are inconsistent therewith shall be ineffective in respect to us.
- 1.2 Our General Terms and Conditions of Sale and Delivery for International Business shall apply solely to persons resident and companies with registered place of business abroad (outside the territory of the Federal Republic of Germany) who, upon conclusion of the contract, act in the exercise of their commercial or self-employed activities.
- 1.3 Our domestic customers shall be subject to our „General Terms and Conditions of Domestic Business“.

**2. Contract conclusion and content, reservation of changes**

- 2.1 Volume and scope of the delivery shall be based on our written confirmation of order; in case of our binding offers and its timely acceptance, volume and scope shall be based on the offer. Collateral agreements and changes must be confirmed by us in writing to be effective.
- 2.2 We reserve the right to make changes to construction, design and materials provided that the normal or contractually assumed or agreed use of the delivered item is not substantially or detrimentally impaired and that the customer may be reasonably expected to accept the changes.
- 2.3 We reserve ownership rights, titles, copyrights and industrial property rights (including the right to register such rights) in cost estimates, drawings and other documents; the above documents may be made available to third parties in the event that there is no manifest need for secrecy or confidentiality.

### **3. Delivery period, customer's incapability, taking over the goods**

- 3.1 Delivery periods must be confirmed by us expressly in writing to be effective.
- 3.2 Agreed delivery periods shall not begin before any details of the desired design to be specified by the customer and the technical questions to be answered by the customer have been fully clarified and settled. Not included in the delivery period is the time span in which the customer is in arrears with an agreed payment, i.e. the delivery period is to be extended by the period during which the delay in payment existed. The observance of the delivery period postulates the proper and timely performance of the customer's obligations. If the customer causes a change in the contract which, in turn, renders it impossible to maintain the originally agreed delivery period, the delivery period shall be extended accordingly.
- 3.3 The delivery period is deemed to have been met if, prior to its expiry, the circumstances causing the passage of risk under 4.2 have occurred. Our liability for delays in deliveries within our control shall be within the limits specified under 8 hereunder.
- 3.4 The delivery period shall be reasonably extended in the event that we are unable to meet our delivery obligations at all or in good time for reasons beyond our control and which could not be foreseen by us at the time of contract closure. The impediment reasons beyond our control include, in particular, the untimely and improper delivery of materials from our suppliers. We shall notify the customer forthwith of the beginning and end of such impediment. If the impediment persists for longer than three months, or if it is established that it will persist for longer than three months, both the customer and we may declare this contract avoided.
- 3.5 Call orders are valid no longer than one year after the delivery of the first call.
- 3.6 If, after contract closure, we become aware of circumstances giving rise to justified doubts regarding the customer's credit worthiness or ability to pay, with the ensuing risk that our contractual claim for payment may be jeopardised, we shall be entitled to deny our services until such date as payment has been made in accordance with the contract or security has been provided for said payment and the customer has satisfied and discharged any other claims which have arisen from the business relationship and which are economically associated with the contract in question. In case the customer does not meet these provisions, we shall be entitled to declare the concluded contract void and to claim damages.

3.7 If the customer fails to take over the goods at the agreed time or fails to pay the purchase price pursuant to 5.3, we reserve the right at our discretion to declare the contract avoided and/or claim damages following the futile expiry of a reasonable period of time set by us. Upon the assertion of claims for damages, we shall, without proof, be entitled to demand compensation

- in the amount of 20 % of the purchase price in settlement of lost profits, if the goods are series-manufactured or standard products,
- in the amount of 100 % of the purchase price if the goods are custom-made products made according to customer's specifications.

In the event that the losses incurred by us are higher, we may also assert our claim in full, providing evidence of such higher losses. Furthermore, we shall be entitled to charge the customer for any costs and expenses, in particular storage costs, incurred by the customer failing to take over the goods. One month after the announcement of readiness for delivery, we begin to charge the customer for storage costs in the amount of 5 % of the invoiced amount per month or part thereof, unless the actual storage costs are considerably higher or lower.

#### **4. Delivery, passage of risk, transport insurance, partial delivery, excess and short delivery**

4.1 The place of delivery shall be determined by the delivery clauses agreed between us and the customer, such clauses to be interpreted in accordance with the Incoterms 2010. If no special delivery clause has been agreed, deliveries shall be made free carrier (FCA), irrespective of who pays the transport charges. Goods carried to the customer shall be transported at customer's risk. Unless agreed otherwise, the mode of shipment and shipping route shall be chosen at our discretion without any warranty being given for the cheapest and/or the fastest shipment.

4.2 Unless agreed otherwise, risk shall pass to customer at the time the goods have been placed at customer's disposal. If the goods are carried to the customer, risk shall pass to customer at the latest at the time the goods are handed over to the first forwarder or shipper. If the transport of the goods is delayed due to reasons beyond our control, the risk shall pass to customer as soon as the customer is notified of the readiness of the goods for shipment.

- 4.3 At customer's request and at its expense, deliveries shall be insured against theft, damage in transit and other insurable risks.
- 4.4 We are, within reasonable limits, entitled to provide partial deliveries and services. We reserve the right to make excess or short deliveries up to 5 % of the ordered amount, yet not less than one article.

## **5. Price, payment**

- 5.1 In the absence of special or separate agreements, the prices quoted are deemed to be ex works (EXW) plus packaging, transport, insurance and other taxes and charges related to the delivery. Payments shall be made in the currency stated in our framework supply agreement or in our binding offer.
- 5.2 In case of an inevitable cost rise on our side after contract closure, especially due to changes in material prices, additional fiscal burdens, tariff increases, currency fluctuations or collective agreements, we shall be entitled to request a change of the agreed price according to the extent of the cost rise.
- 5.3 Unless agreed otherwise, our invoices shall be due for payment in full without deduction within 30 days after the date of invoice. Payment is deemed to have been made as soon as we are free to dispose of the amount without recourse (payment received).
- 5.4 Should the customer be in default with any payments, then all his amounts owed to us shall become due. In this case, we shall be entitled to claim advance payments or the opening of a credit in our favour for deliveries still open. This shall apply even if different payment arrangements have been agreed upon at first.
- 5.5 Bills of exchange and cheques shall be accepted only on account of performance and shall be considered as payment only after they have been unconditionally credited. Any costs and expenses incurred thereby, in particular, bank, discount, bill of exchange and other expenses, shall be paid by the customer and shall be due forthwith.
- 5.6 Offsetting or netting off of counter claims or the right to withhold payment is only permitted if the legal claims are recognised, uncontested and accepted by us.

- 5.7 If the customer fails to pay the purchase price within 30 days as specified under 5.3, we may demand interest of 8 % p.a. above the principal rediscount rate of the European Central Bank without prejudice to any other remedies to which we may be entitled. We reserve the right to prove and claim actual higher damages.

## **6. Reservation of title**

- 6.1 We retain title to the delivered goods until the purchase price for the goods has been paid in full in accordance with 5.3. hereunder, provided such reservation of title is effective under governing law.
- 6.2 The customer shall take all measures necessary to safeguard this right to property title or to procure equivalent security rights in the country of destination (customer's registered place of business. Failure by the customer to comply with this obligation shall constitute a substantial breach of contract.
- 6.3 The arrangements regarding reservation of title shall not affect the provisions relating to the passage of risk under 4.2 herein.

## **7. Lack of conformity of the goods or documents, notice of defects, warranty**

- 7.1 The customer shall be obliged to give written notice of lack of conformity of the goods and/or documents which were identifiable when taking them over, such notice to be given promptly, at the latest however within one week after the take over, specifying in detail the nature of the lack of conformity. The customer shall also be obliged to examine the goods and/or the documents promptly, at the latest however within one week after the take over. The customer shall lose the right to invoke the lack of conformity of the goods if he fails to give written notice to us thereof, specifying the nature of the lack of conformity, within one week after he has, or should have, discovered the lack of conformity, irrespective of the reason the customer gives for not complying with this requirement. The customer's written notice of defects must be sent to us no later than one week after the take over of the goods or after discovery of the lack of conformity, in addition, we must also be in actual receipt of the notice of defects promptly sent by the customer.
- 7.2 If, after the customer has given notice of defects, no lack of conformity of the goods can be determined, the customer shall be obliged to reimburse the costs and expenses incurred by us in connection with the examination and inspection of the goods.

- 7.3 In the event of lack of conformity of the goods or documents we shall be entitled to remedy such lack of conformity by repair or replacement even after the agreed date of delivery. Unless agreed otherwise in the contract or as a result of circumstances relating to the conclusion of the contract, in particular the negotiations held, a lack of conformity does not prevail if the goods do not conform to the applicable technical and other standards in the country of destination (customer's registered place of business) or if the goods are unfit for the purpose for which similar goods are normally used.
- 7.4 Insofar as the lack of conformity of the goods or documents is not remedied by repair or replacement within a reasonable period of time, the customer may request a reduction in the purchase price in proportion to the reduced value of the goods.
- 7.5 In the event of lack of conformity of the goods or documents, the customer shall not be entitled to declare the contract void in lieu of the reduction in purchase price, unless such lack of conformity constitutes a substantial breach of contract. No substantial breach of contract shall prevail, however, if we remedy the lack of conformity within a reasonable period to be determined by the customer, but which shall not be less than six weeks.
- 7.6 The customer's right to assert claims under the warranty shall expire within twelve months after the customer has taken over the delivery items.

## **8. Liability, compensation**

- 8.1 Our liability for compensation in case of breach of contractual or any other obligations, in particular for consequential losses due to late delivery or lack of conformity of the goods or documents, shall be excluded, unless liability arises from intention or gross negligence. The same shall apply in case the contract had been declared avoided according to Sec. 3.4 or 7.5. The liability limitations outlined in this Section 8.1 shall not apply in the event of injury to life, body or health.
- 8.2 Our liability under the applicable and contractually unchangeable legal product liability regulations shall remain unaffected.

## **9. Third party protected rights**

If, in the course of manufacturing the goods in accordance with customer's specifications (e.g. patterns, drawings, models), any third party rights are infringed, the customer shall indemnify and hold us harmless from and against any all claims arising therefrom.

## **10. Place of performance, jurisdiction, arbitration, governing law**

10.1 Unless agreed otherwise, the place of performance shall be 78333 Stockach (Federal Republic of Germany).

10.2 Subject to the provisions 10.3. hereunder, any disputes arising from, or in connection with, the contracts for which our General Terms and Conditions of Sale and Delivery for International Business are deemed to apply shall be governed exclusively by the courts at our registered place of business of STS-Spezial-Transformatoren Stockach GmbH & Co. KG in 78333 Stockach (Federal Republic of Germany). In derogation of sentence 1 above, we shall be entitled, however, to take action against the customer at the courts with jurisdiction at his registered place of business.

10.3 If a contracting party wishes to rise claims arising from or in connection with contracts, for which our General Terms and Conditions for International Business apply, against the other contracting party, it may demand in derogation of 10.2 above that the dispute be finally settled in accordance with the arbitration rules of the International Chamber of Commerce (ICC) of Paris as amended, without recourse to courts of law. With an assumed value in dispute below Euro 100,000.00, the court of arbitration shall be constituted of one arbitrator, in any other case of three arbitrators. Place of arbitration shall be in Zurich / Switzerland; the language of the court of arbitration may be German or English. If no agreement can be reached among the parties on the language of the court, the language shall be English.

10.4 The contract shall be governed by the laws of the United Nations Convention on the International Sale of Goods (CISG) dated 11 April 1980. Legal issues which not addressed or regulated in the Convention, or which cannot be settled in conformity with the general principles on which CISG is based, shall be subject to substantive Swiss law.

## **11. Final provisions**

11.1 In the event that any individual terms or provisions of the present General Terms and Conditions of Sale and Delivery for International Business or any agreement based thereon should, for any reason, be held to be invalid or unenforceable, the remaining provisions shall remain in full force and effect. In case of such an invalid or legally unenforceable term or provision the parties shall jointly seek an arrangement having a legal and economic effect which will be as similar as possible to the invalid or legally unenforceable provision.

11.2 The parties hereto mutually undertake to take all reasonable actions which may be necessary to achieve the purpose of the contract and to refrain from any actions which could adversely affect its validity and effectiveness.