

of Anton Paar TriTec SA, Rue de la Gare 4, 2034 Peseux, Switzerland

1 Scope

- 1.1. These General Terms shall govern offers for sale and legal transactions made by Anton Paar TriTec SA, namely the delivery of commodities and, mutatis mutandis, the rendering of services. These Terms shall be applied unless details of the individual transaction are otherwise agreed upon in writing.
- 1.2. Any conditions of the Buyer that derogate from these General Terms shall be deemed to be invalid unless expressly agreed in writing by the Seller.

2 Submission of offers

- 2.1. The Seller's offers shall be deemed to be non-binding offers.
- 2.2. Tender documents and project documentation must not be duplicated nor made available to third parties without the permission of the Seller. They may be claimed back at any time and shall be returned to the Seller immediately if the order is placed elsewhere.

3 Conclusion of the contract

- 3.1. The contract shall be deemed concluded upon written confirmation by the Seller of an order received or upon dispatch of a delivery.
- 3.2. Particulars appearing in catalogues, folders, etc. as well as any oral or written statements shall only be binding if the Seller makes express reference to them in the confirmation of the order.
- 3.3. Subsequent amendments of or additions to the contract shall be subject to written confirmation by the contracting parties.

4 Prices

- 4.1. Prices shall be quoted ex works or ex Seller's warehouse without VAT, packing and packaging, loading, disassembly, take-back and proper recycling and disposal of waste electrical and electronic equipment for commercial purposes. The Buyer shall be liable for any and all charges, taxes or other duties levied in respect of delivery. If the terms of delivery include transport to a destination designated by the Buyer, the transport costs as well as the cost of any transport insurance desired by the Buyer shall be invoiced separately. Delivery does not, however, include unloading and subsequent

handling. Packaging materials will be taken back only by express agreement.

- 4.2. The Seller reserves the right to modify prices if the order placed is not in accordance with the offer submitted.
- 4.3. Prices are based on costs prevailing at the time of the first quotation. In the event that the costs have changed at the time of delivery, the Seller shall immediately inform the Buyer of the price implications. The Buyer is deemed to have accepted the changes and namely the possible price increase if he does not respond within five days of the receipt of the notification.
- 4.4. In carrying out repair orders, the Seller shall provide all the services deemed expedient and shall charge the Buyer for the same on the basis of the work and/or expenditure incurred. The same shall apply for any services or additional services the expediency of which becomes apparent only as the repair order is executed. In such an event special notification of the Buyer shall not be required.
- 4.5. Expenses for estimates of the costs for the repair and maintenance or for expert valuations shall be invoiced to the Buyer.

5 Delivery

- 5.1. The period allowed for delivery shall commence on the latest of the following dates:
 - a) the date of order confirmation by the Seller;
 - b) the date of fulfillment by the Buyer of all the conditions, technical, commercial and other, for which he is responsible;
 - c) the date of receipt by the Seller of a deposit or security due before delivery of the goods in question.
- 5.2. The Buyer shall obtain whatever licenses or approvals may be required from authorities or third parties for the construction of plant and equipment. If the granting of such licenses or approvals is delayed for any reason the delivery period shall be extended accordingly.
- 5.3. The Seller may carry out, and charge the Buyer for, partial or advance deliveries. If delivery on call is agreed upon, the commodity shall be deemed called off at the latest one year after confirmation of the order.
- 5.4. In the case of unforeseeable circumstances or circumstances beyond the parties' control, such as all cases of force majeure, which

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impede compliance with the agreed period of delivery, the latter shall be extended in every case for the duration of such circumstances; these include in particular, armed conflicts, official interventions and prohibitions, delays in transport or customs clearance, damage in transit, energy shortages and raw materials scarcity, labor disputes, and default on performance by a major component supplier who is difficult to replace. The aforesaid circumstances shall be deemed to prevail irrespective of whether they affect the Seller or his subcontractor(s).

- 5.5. If a contractual penalty for default of delivery was agreed upon by the contracting parties when the contract was concluded, it shall be executed as follows, and any deviations concerning individual items shall not affect the remaining provisions: Where delay in performance can be shown to have occurred solely through the fault of the Seller, the Buyer may claim for each completed week of delay an indemnity of at most one half of one per cent, a total of no more than 5%, however, of the value of that part of the goods to be delivered which cannot be used on account of the Seller's failure to deliver an essential part thereof, provided the Buyer has suffered damage to the aforesaid extent. Assertion of rights for damages exceeding this extent is precluded.

6 Transfer of risk and place of performance

- 6.1. Unless otherwise agreed by both parties, the right of use and risk shall pass to the Buyer at the time of the departure of the goods ex works or ex warehouse. This provision also includes the case of shipment being effected, organised and supervised by the Seller and in the case of delivery being made in connection with assembly work to be undertaken by the Seller.
- 6.2. For services the place of performance shall be the place at which the service is rendered; the risk in respect of such services or any part thereof that may have been agreed upon shall pass to the Buyer once the services have been rendered.

7 Payment

- 7.1. Unless otherwise agreed, one third of the purchase price shall fall due at the time of receipt by the Buyer of the order confirmation by the Seller, one third after half the delivery period has elapsed and the balance at the

time of delivery. Irrespective thereof the value added tax comprised in the amount of the invoice shall be paid within 30 days of the invoice date.

- 7.2. In the case of part settlements the individual part payments shall fall due upon receipt of the respective invoices. The same shall apply to amounts invoiced for additional deliveries or resulting from additional agreements beyond the scope of the original contract, irrespective of the terms of payment agreed upon for the principal delivery.
- 7.3. Payment shall be made without any discount free Seller's domicile in the agreed currency. Drafts and checks shall be accepted on account of payment only, with all interest, fees and charges in connection therewith (such as collection and discounting charges) to be borne by the Buyer.
- 7.4. The Buyer shall not be entitled to withhold or offset payment on the grounds of any warranty claims or other counterclaims.
- 7.5. Payment shall be deemed to have been effected on the date at which the amount in question is at the Seller's disposal.
- 7.6. If the Buyer fails to meet the terms of payment or any other obligation arising from this or other transactions, the Seller may, without prejudice to his other rights,
- suspend performance of his own obligations until payments have been made or other obligations fulfilled, and exercise his right to extend the period of delivery to a reasonable extent,
 - call in debts arisen from this or any other transactions and charge default interest amounting to 1.25% per month for these amounts beginning with the due dates, unless the Seller proves costs exceeding this.

In any case the Seller has the right to invoice all expenses arising prior to a lawsuit, especially reminder charges and lawyer's fees.

- 7.7. Discounts or bonuses are subject to complete payment in due time.

8 Retention of title and assignment of future claims

- 8.1. The Seller retains the title to all the goods delivered by the Seller (conditional commodities) until each and every claim of the Seller against the Buyer on account of the

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business connection, including interest and charges, has been fulfilled. For the duration of the retention the Buyer shall maintain the goods in delivery state and shall insure the goods (sale price) in favor of the Seller against theft, breakage, fire and water at his own expense. In addition, he will take all appropriate measures to prevent any harm to the Seller's property. From the time of the conclusion of the contract the Buyer authorizes the Seller to record the reservation of ownership in the public register and to fulfill the necessary formalities on behalf of the Seller.

- 8.2. The Buyer herewith assigns his claim out of a resale of conditional commodities, even if they are processed, transformed or combined with other commodities, to the Seller to secure the latter's purchase money claim, and he undertakes to make a corresponding entry in his books or on his invoices. Upon request the Buyer has to notify the assigned claim and the debtor thereof to the Seller, and to make all the information and material required for his debt collection available and to notify the assignment to the third-party debtor. If the goods are attached or otherwise levied upon, the Buyer shall draw attention to the Sellers' title and immediately inform the Seller of the attachment or levy.

9 Warranty and acceptance of obligation to repair defects

- 9.1. Once the agreed terms of payment have been complied with, the Seller shall, subject to the conditions hereunder, remedy any defect existing at the time of acceptance of the article in question whether due to faulty design, material or manufacture, that impairs the functioning of said article. From particulars appearing in catalogues, folders, promotional literature as well as written or oral statements which have not been included in the agreement no warranty obligations may be deduced.
- 9.2. Unless special warranty periods operate for individual items the warranty period shall be 12 months. These conditions shall also apply to any goods supplied, or services rendered in respect of goods supplied that are firmly attached to buildings or the ground. The warranty period begins at the point of passage of risk acc. to paragraph 6.
- 9.3. The foregoing warranty obligations are conditional upon the Buyer giving immediate

notice in writing of any defects that have occurred. The Buyer shall prove immediately the presence of a defect, in particular he shall make available immediately to the Seller all material and data in his possession. Upon receipt of such notice the Seller shall, in the case of a defect covered by the warranty under 9.1 above, have the option to replace the defective goods or defective parts thereof or else to repair them on the Buyer's premises or have them returned for repair, or to grant a fair and reasonable price reduction. If the goods remain defective after two repairs and/or if the replacement part remains defective following the measures mentioned in point 9.3 above, the Buyer can demand compensation as has been agreed before for such a case, or, in the event that such an agreement cannot be reached, a reasonable reduction in the price. If the fault is so serious that it cannot be remedied within a reasonable period of time and/or if the services are not usable or are only usable to a considerably reduced degree, the Buyer is entitled to refuse acceptance of the defective parts or to withdraw from the contract if it is not economically reasonable to expect him to make a partial acceptance. In this case the Seller need only reimburse the sums paid for the parts in question.

- 9.4. Any expenses incurred in connection with rectifying defects (e.g. expenses for assembly and disassembly, transport, waste disposal, travel and site-to-quarters time) shall be borne by the Buyer. For warranty work on the Buyer's premises the Buyer shall make available free of charge any assistance, hoisting gear, scaffolding and sundry supplies and incidentals that may be required. Replaced parts shall become the property of the Seller.
- 9.5. If an article is manufactured by the Seller on the basis of design data, design drawings, models or other specifications supplied by the Buyer, the Seller's warranty shall be restricted to non-compliance with the Buyer's specifications.
- 9.6. The Seller's warranty obligation shall not extend to any defects due to assembly and installation work not undertaken by the Seller, inadequate equipment, or due to non-compliance with installation requirements and operating conditions, overloading of parts in excess of the design values stipulated by the Seller, negligent or faulty handling or the use of inappropriate materials, nor for defects

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attributable to material supplied by the Buyer. Nor shall the Seller be liable for damage due to acts of third parties, atmospheric discharges, excess voltage or chemical influences. The warranty does not cover the replacement of parts subject to natural wear and tear. The Seller accepts no warranty for the sale of used goods.

- 9.7. The warranty shall lapse immediately if, without the written consent of the Seller, the Buyer himself or a third party not expressly authorized undertakes modifications or repairs on any items delivered.
- 9.8. The Buyer's claims of redress against the Seller on grounds of the Buyer's own warranty obligations from resale are subject to the statute of limitation with lapse of the period mentioned under point 9.2.
- 9.9. The provisions of sub-paragraphs 9.1 to 9.7 shall apply, mutatis mutandis, to all cases where the obligation to repair defects has to be accepted for other reasons laid down by law.
- 9.10. The rights and claims of the Buyer with regard to faults affecting the materials, the design and the manufacture as well as those arising from the promised quality, are limited to those expressly mentioned in point 8 9 of the General Terms. The Seller shall not be liable for willful negligence or for grave misconduct if the Buyer enforces claims deriving from erroneous advice or facts or from the violation of any other subsidiary obligation..

10 Withdrawal from the contract

- 10.1. The Buyer may withdraw from the contract only in the event of delays caused by gross negligence on the part of the Seller and only after a reasonable period of grace has elapsed. Withdrawal from contract shall be notified in writing by registered mail.
- 10.2. Irrespective of his other rights the Seller shall be entitled to withdraw from the contract
- if the execution of delivery or the continuation of the services to be rendered under the contract is made impossible for reasons within the responsibility of the Buyer and if the delay is extended beyond the reasonable period of grace allowed;
 - if doubts have arisen as to the Buyer's creditworthiness and if the same fails, on the Seller's request, to make an advance payment or to provide adequate security prior to delivery, or

c) if, for reasons mentioned in 5.4, the period allowed for delivery is extended by more than half of the period originally agreed or at least 6 months.

- 10.3. For the reasons given above withdrawal from the contract shall also be possible in respect of any outstanding part of the delivery or service contracted for.
- 10.4. If bankruptcy proceedings are instituted against any contracting party or an application for bankruptcy proceedings against that party is not granted for insufficiency of assets, the other party may withdraw from the contract without allowing a period of grace.
- 10.5. Without prejudice to the Seller's claim for damages including expenses arising prior to a lawsuit, upon withdrawal from the contract any open accounts in respect of deliveries made or services rendered in whole or in part shall be settled according to the contract. This provision also covers deliveries or services not yet accepted by the Buyer as well as any preparatory acts performed by the Seller. The Seller shall, however, have the option alternatively to require the restitution of articles already delivered.
- 10.6. Withdrawal from the contract shall have no consequences other than those stipulated above.

11 Seller's liability

- 11.1. All the cases of breach of contract and the legal consequences thereof as well as all the claims, whatever their nature, that the Buyer could enforce, whatever the legal basis, are governed exhaustively in these General Terms. In particular, all the claims for damages, price reductions, cancellation or termination of the contract that are not expressly reserved in the contract or which exceed the current provisions of these General Terms are excluded. In no case shall the Buyer be entitled to claim for damage that was not caused to the object of the delivery itself, such as loss of production, operating losses, loss of business, loss of profits or any other direct or indirect damage. The Seller shall only be liable for damage if it is proved that such damage was caused willfully or due to serious negligence on his part. Responsibility for minor faults is excluded.
- 11.2. This exclusion from responsibility is null and void in the case of intent and gross negligence on the part of the Seller. It also



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applies to cases of intent and gross negligence on the part of auxiliaries.

11.3. This exclusion from responsibility is null and void if it is in derogation of imperative law.

12 Industrial property rights and copyrights

12.1. The Buyer shall indemnify the Seller and hold him harmless against any claims for any infringement of industrial property rights raised against him if the Seller manufactures an article pursuant to any design data, design drawings, models or other specifications made available to him by the Buyer.

12.2. Design documents such as plans and drawings and other technical specifications as well as samples, catalogues, prospectuses, pictures and the like shall remain the intellectual property of the Seller and are subject to the relevant statutory provisions governing reproduction, imitation, competition, etc. The provisions of 2.2 above shall also cover design documents.

13 General conditions

13.1. Should individual provisions of the contract or of these terms be invalid the validity of the other provisions shall not be affected. The invalid provision shall be replaced by a valid one, which comes as close to the target goal as possible.

14 Jurisdiction and applicable law

14.1. The place of jurisdiction for the parties shall be at the registered office of the Seller.

14.2. The contract is exclusively subject to substantive Swiss law. Application of the UN Convention on Contracts for the International Sale of Goods is renounced.