

## General

- 1.1. These Conditions of Sale and Delivery apply to all deliveries and services on the part of Vogt AG Verbindungstechnik, hereinafter referred to as Vogt. The Buyer's conditions to the contrary are deemed invalid.
- 1.2. All agreements and legally relevant explanations by the contracting parties are subject to the written form in order to be deemed valid.
- 1.3. A contract entered into with the Buyer shall come into existence following written confirmation by Vogt. Electronic signatures are permitted and may replace a physical signature.

## Scope of deliveries and services

- 2.1. The deliveries and services on the part of Vogt are ultimately stated in the confirmation of order including enclosures for the confirmation.
- 2.2. Vogt reserves the right to provide additional or shortfall deliveries of up to 10% of the order for products manufactured in accordance with the customer's wishes.

## Technical documents

- 3.1. Vogt shall not be liable for consequential damage as a result of varying illustrations and/or measurements in technical documents such as pamphlets, catalogues, brochures, CD-ROMs or the internet. Details in technical documents shall only be binding insofar as an assurance is expressly given in this respect.
- 3.2. Each contracting party reserves all rights to technical documents that it has surrendered to the other party. The receiving contracting party acknowledges such rights and shall not make such documents available in full or in part to third parties without prior, written, authorisation by the other contracting party or use such documents for a purpose that extends beyond the purpose for which they have been surrendered.
- 3.3. Any kind of tools and forms shall, in any case, remain Vogt's property.

## Prices and minimum order values

- 4.1. In the absence of an agreement to the contrary, all prices are to be construed as being stated in Swiss francs, as net prices, ex works (latest version of Incoterms), without packaging and plus value added tax.
- 4.2. All deliveries and services in countries with exclusive Vogt sales partners shall be provided by such partners. In such countries all applications on the part of the Buyer shall be forwarded to the exclusive sales partner and the prices may differ from Vogt's prices in Switzerland.
- 4.3. Vogt shall inform the Buyer, should the amount of an order not correspond with the minimum order value defined by Vogt. The minimum valid value of an order is respectively related to the value of the goods per delivery (without the packaging), not including freight costs and value added tax, and is for Switzerland CHF 50.-, for Europe € 100.- and overseas € 100.-.

## Terms and conditions of payment

- 5.1 In the absence of an agreement to the contrary, the Buyer is to effect payment 30 days as from the date of invoice without deductions for a trade discount, expenses, taxes, levies, fees, customs charges and the like.
- 5.2 The payment periods are to be adhered to even if the shipping, delivery, assembly, commissioning or acceptance delay or render impossible deliveries or services for reasons that are not Vogt's responsibility or if insignificant parts are lacking or require reworking that does not render impossible use of the delivery or service.
- 5.3 If a down or advance payment is not effected as per agreement, in the event that such a payment was agreed, Vogt shall be entitled to abide by the contract or withdraw from the contract and, if justified, lodge a claim for damages.
- 5.4 Mutual claims resulting from or in conjunction with this contract may only be set off by way of acknowledged or res judicata counter claims.

## Dunning fees

- 6.1 If the customer is in default of payment, fees of CHF 20.- will be charged for the second reminder.
- 6.2 Additional fees of CHF 30.- will be charged for the third reminder.

## Delivery period

- 7.1 The delivery period shall commence as soon as the contract is entered into and all official formalities such as import or payment licenses have been obtained, payments due upon placing an order and all possible securities have been paid and the technical issues have been clarified. The delivery period shall be deemed to have been adhered to if the delivery has been dispatched to the Buyer up to expiry of the delivery period or Vogt has provided the Buyer with notification of readiness to render services.
- 7.2 The delivery period shall be extended accordingly:
- if Vogt is not provided in good time with the details it requires to honour the contract or if the Buyer subsequently amends these and consequently brings about a delay in the deliveries or services;
- if hindrances apply that Vogt cannot ward off regardless of due care and irrespective of whether such incidents affect Vogt, the Buyer or a third party. Such hindrances are, for example, epidemics, mobilisation, war, unrest, considerable breakdowns, accidents, industrial conflicts, delayed or faulty supplies of required raw materials, semi- or finished products, rejects of key work pieces, official measures or failure to take action and acts of God;
- if the Buyer or a third party defaults with regard to honouring contractual obligations resulting from this contract or earlier orders, in particular if the Buyer does not abide by the conditions of payment.
- 7.3 The Buyer shall neither be entitled to the right to withdraw nor lodge other claims such as abatement or claims for damages as a result of delayed deliveries or services. This restriction does not apply to unlawful intent or gross negligence on the part of Vogt. However it does apply to unlawful intent or gross negligence on the part of vicarious agents.
- 7.4 Only framework agreements comprising terms of acceptance will be accepted. Should the term of acceptance not be clearly defined it will terminate 12 months after conclusion of the contract. The goods must thereby be accepted according to the purchase quantities defined in the contract. Should the acceptance not occur within the time span agreed upon, Vogt is free to dispatch deliveries completed without further notice or to store such at the Buyer's expense.

## Passing of use and risk

8.1 In the case of contracts limited to deliveries, use and risk shall pass to the Buyer at the latest upon dispatch of deliveries from the plant or following selection for delivery, or in the case of plant delivery contracts when use of deliveries and services commences.

8.2 If shipping is delayed at the Buyer's request or for other reasons that are not Vogt's responsibility, the risk shall pass to the Buyer at the time initially proposed for the delivery ex works. As from this time goods shall be stored and insured on the Buyer's account and at the Buyer's risk.

## Shipping, transport and insurance

9.1 Vogt is to be provided with details of special wishes regarding shipping, transport and insurance at the latest at the time at which an order is placed. Transports shall be carried out ex works (latest version of Incoterms) on the Buyer's account and at the Buyer's risk.

9.2 The Buyer is to direct complaints in conjunction with the shipping or transport upon receipt of deliveries or the freight documents without delay to the last used freight carrier.

9.3 It is incumbent upon the Buyer to take out insurance with coverage against any kind of damage.

## Checking and acceptance of deliveries and services

10.1 Vogt shall check the deliveries and services with the due care that is customary for its business operations prior to shipping or once services have been rendered. If the Buyer requests further-reaching checks, these are to be agreed separately and paid for by the Buyer.

10.2 The Buyer is to check the (partial) deliveries and (partial) services within period of 7 calendar days and inform Vogt in writing without delay of defects that may apply. The (partial) deliveries and (partial) services shall be deemed approved if the Buyer fails to take such action.

10.3 Vogt is to rectify faults brought to its notice in accordance with sub-section 9.2 as quickly as possible, and the Buyer is to give Vogt the opportunity to perform such work.

10.4 The delivery or service shall also be deemed approved as soon as the Buyer uses or can use Vogt's (partial) deliveries or (partial) services.

10.5 In the event of any kind of defects regarding the (partial) deliveries and (partial) services, the Buyer shall not have any rights or be entitled to any claims apart from those expressly stated in sub-section 9 and sub-section 10.

## Warranty, liability for defects

### 11.1 Warranty period

The warranty period is 12 months. It commences upon dispatch of deliveries ex works. If shipping is delayed for reasons that are not Vogt's responsibility, the warranty period shall end at the latest 18 months following the confirmed delivery date. In the event of warranty claims, the guarantee shall commence following the end of the rendering of services and shall last 12 months. In the case of replaced or repaired parts, the warranty period shall end upon expiry of the original warranty period in accordance with the above passage. The warranty shall expire prematurely if the Buyer or a third party makes improper changes or carries out improper repairs or if the Buyer does not undertake suitable measures to minimise damage if a defect applies and does not provide Vogt in writing with an opportunity to rectify the defect.

## 11.2 Liability for faulty material, construction and design

Vogt undertakes at its discretion, by way of exclusion of any other claims, at the Buyer's written request to make good or replace all parts of Vogt deliveries, that prove to be useless due to faulty material, construction or design, up until expiry of the warranty period as quickly as possible. Spare parts shall become Vogt's property. Vogt shall carry the cost of subsequent performance incurred at its plant. The Buyer shall carry the cost of replacement and subsequent improvement beyond Vogt's plant in the event that no agreements to the contrary were entered into.

11.3 Vogt undertakes at its discretion, by way of exclusion of any other claims, at the Buyer's written request to make good or replace up until expiry of the warranty period at its discretion and as quickly as possible all services on the part of Vogt, which prove to be faulty or useless due to a faulty design.

11.4 Liability for warranted characteristics shall only be assumed for characteristics that have been expressly stated as such in the confirmation of order. The warranted characteristics apply at most up until expiry of the warranty period unless a longer term is warranted. If the warranted characteristics are not honoured or are merely honoured in part, Vogt shall be entitled to carry out subsequent improvements. To this end the Buyer is to grant Vogt ample time and opportunity. If the subsequent performance fails or is merely partially successful, the Buyer shall be entitled to reduce the price appropriately.

## 11.5 Exemption from liability for defects

The following are excluded from Vogt's liability: damage to the products delivered by Vogt that is proven not to be attributable to poor material, a faulty construction or design such as damage due to wear-and-tear (as a result of breaks and general wear-and-tear and including overloading, weathering effects, air pollution and EMC), faulty maintenance, failure to observe operating regulations, over use, inappropriate operating resources, chemical or electrolytic effects, interference with other products, systems or services and due to other reasons that are not Vogt's responsibility.

## 11.6 Deliveries and services on the part of sub-suppliers

With regard to deliveries and services on the part of sub-suppliers specified by the Buyer, Vogt shall merely provide warranty as part of the warranty obligations of the respective sub-suppliers.

## 11.7 Exclusiveness of warranty claims

In the case of faulty material, construction or design as well as the lack of warranted characteristics, the Buyer shall not be entitled to any rights or claims other than those expressly stated in sub-sections 10.1 to 10.5. In particular the Buyer shall not be entitled to lodge a claim for conversion or damages.

## 11.8 Liability for accessory obligations

With regard to claims on the part of the Buyer regarding incorrect advice and the like or due to a breach of any kind of accessory obligations, Vogt shall only be liable in the case of unlawful intent or gross negligence.

11.9 The warranty rights and objections may not be assigned to third parties without prior, written, approval by Vogt.

11.10 Vogt reserves the right to complete, modify or entirely eliminate product lines or individual products from the product range, especially in the event of tool damage or shifts of the market.

11.11 Vogt reserves the right to make changes in the design at all times, however is thereby not obliged to make such changes on products which have already been delivered.

11.12 The Buyer shall abide by Vogt's regulations regarding the return of goods under warranty or for repair.

## **Non-performance, mal-performance and consequences of such action**

12.1 In all cases of mal-performance or non-performance not expressly stated in these conditions, in particular if Vogt commences with the performance of deliveries and services without reason at such a late stage that timely completion can no longer be anticipated, or if deliveries and services have been carried out in breach of contract for which Vogt is responsible, the Buyer shall be entitled to grant an additional period of time of reasonable length for Vogt regarding the respective deliveries or services by way of threatening to withdraw if the performance is not honoured. If this additional period expires in vain for which Vogt is responsible, the Buyer may withdraw from the contract regarding the deliveries or services that have been carried out in breach of contract or where performance in breach of contract is foreseeable, and request reimbursement of the respective payment already effected and which applies to such a breach of contract.

## **Exclusion of further liability**

13.1 All claims on the part of the Buyer are excluded apart from those expressly stated in these conditions, irrespective on whichever legal basis such claims are lodged, in particular any kind of claims for damages, abatement or withdrawal from contract that are not expressly stated. Under no circumstances shall the Buyer be entitled to compensation for damage that does not apply to the delivery item, in particular loss of output, loss of use, loss of orders, loss of expected profits and other direct or indirect damage. These restrictions do not apply to unlawful intent or gross negligence on the part of Vogt. However they do apply to unlawful intent or gross negligence on the part of vicarious agents.

## **Partial deliveries and partial services**

14.1 In the event that partial deliveries are carried out, the provisions regarding acceptance and warranty shall apply in each case separately to such deliveries. The same applies if services are rendered that the Buyer uses on a step-by-step basis or which can be used in this manner.

## **Taking back packaging material and disposal**

15.1 The Buyer is not entitled to have Vogt take back or dispose of packaging material for products that Vogt has supplied.

## **Taking back deliveries and “on approval” consignments**

16.1 Orders mistakenly placed by the Buyer may only be replaced up to a maximum period of 30 days following delivery from Vogt AG. A replacement cannot be provided if the goods were delivered from Vogt AG in excess of a period of 30 days.

16.2 As a general rule credit notes will only be issued without replacement if proof is furnished of a defect for which Vogt is responsible.

16.3 As a general rule the “on approval” consignments that the Buyer returns to Vogt shall only be credited if Vogt receives such consignments up to a maximum period of 20 days following delivery and if they are in perfect condition. Vogt reserves the right not to credit “on approval” consignments that are not in perfect condition when returned, or to merely provide appropriate credit.

16.4 The conditions stated in sub-section 15.1 to sub-section 15.3 shall only apply if taking back consignments has been agreed beforehand with Vogt and the goods are in their original packaging. Likewise Vogt shall only accept shipping methods or service providers confirmed by Vogt.



## Right of recourse on the part of Vogt

17.1 If persons are injured, third-party material damaged or if other damage is caused as a result of action, or failure to take action, on the part of the Buyer or its vicarious agents, and if claims are lodged against Vogt as a result of this, Vogt shall be entitled to a right of recourse in dealings with the Buyer. The Buyer shall indemnify Vogt.

## Place of jurisdiction and applicable law

18.1 Olten, Switzerland, is deemed the place of jurisdiction and performance for Vogt. However, Vogt is entitled to bring an action against the Buyer at the court with jurisdiction for its registered office.

18.2 The legal relationship is subject to Swiss substantive law. Application of the UN Convention on Contracts for the International Sale of Goods dated 11 April 1980 is excluded.

## Translation

In the event of differences between the foreign language version and the German text, solely the German text shall be deemed authoritative.

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