

## **A) GENERAL, OFFERS, ORDERS, DOCUMENTATION AND DESIGNS**

- Our sales are subject to the present conditions based on the general dispositions of the law. Even if our customer declares by a printed document that his conditions are the only valid ones to settle our commercial relationship, this declaration shall not be binding to us and have no influence on our juridical relations, whatever may be the form of this declaration and the circumstances in which the declaration was done in relation to the conclusion and execution of the contract. The contents of the contract shall not be modified either by our silence with regard to modification proposals directly or indirectly expressed by our customer, or by the fact that we carry out the deliveries without any reserve.
- If our offers are not accepted by our customer as rapidly as the circumstances allow for, they shall be no more binding to us until the final conclusion of the contract, unless we have consented to an extended acceptance period to our customer.  
Any order that does not correspond exactly to our offer as well as any oral, telephonic, telegraphic, telexed or e-mailed order, addition, modification or agreement on secondary points shall not be binding to us, unless we have expressly confirmed them in writing.  
Any point discussed with our agents or representatives shall be valid only if confirmed by us in writing.
- Any documentation included in our offers or order confirmations or attached to them as designs and sketches as well as indicated dimensions, weights, performances and others shall be considered as approximate information, unless we have expressly guaranteed their accuracy.
- Our offers indicate approximate values and shall not be binding.
- We do not supply any detailed design, but only general plans. This also applies to the instruction manual. The customer shall not have the right to demand the delivery of such documents.

## **B) COPYRIGHT AND OTHER RIGHTS, TRADE SECRET**

- All documentation supplied by us, as samples, designs, plans, offers, reproductions etc. shall remain our exclusive property. Also the copyright to that they may be subject remains with us. This documentation shall not be used for other purposes or reproduced, communicated to third parties or put in circulation by any other means; the documentation shall be returned to us upon our first request. Moreover, our customer shall not be allowed to copy, let copy or help to copy our products, unless they have not been entirely made according to his directives and prescriptions. The rights with regard to the processes that we have transferred or disclosed in whatsoever form to our customer shall be exploited in no other aim than planned or specified in the contract; these processes shall not be communicated to third parties, unless with our explicit consent.
- Our customer shall consider as part of our industrial secret and keep confidential all information obtained, in particular all commercial and technical data; this obligation covers in particular all information on our products and installations obtained or deducted from negotiations or visits to our companies. Our customer will inform his staff accordingly.
- The violation of the stipulations 1 and 2 shall entitle us to claim damages.
- If we are mandated by our customer to execute a project according to designs, models, samples or other indications supplied by him, or according to processes indicated by him, the customer shall be liable in case of the violation of rights of third parties, in particular the rights on processes. If, bringing forward such rights, a third party prohibits us the execution and delivery of such works, we shall be authorized, without being obliged to verify the juridical situation, to suspend our activity in this controversy and to claim damages from our customer.
- The customer shall not claim any copyright for an object developed for him by our technical office (prototype). At no time, he can not prohibit the sale of similar objects to other customers.

## **C) EXECUTION AND DELIVERY ACCORDING TO THE DESIRES, INDICATIONS AND DESIGNS OF THE CUSTOMER**

- With regard to the work executed according to the desires, projects, designs or other indications of our customer, we shall be released from our obligations, if we deliver in conformity with the supplied indications, without being obliged to verify or test the delivered products in terms of their results expected by the client.
- The equipment and devices used in such a case shall remain our property; only the depreciation costs are invoiced to our customer. We shall not be obliged to keep such equipment and devices after execution of the contract, unless such an agreement has been concluded with our customer in the event of future orders.
- Upon request of our customer or if we judge it necessary, we treat the samples with the prospect of production suitability. Any modification request shall not be binding until we deliver our written confirmation. The expenses for modifications, of which we are not responsible, shall be borne by the customer.

## **D) PROMISED QUALITIES, AGREEMENTS**

- We do not consider qualities as promised, unless they expressly figure as such in the special part of the contractual provisions.
- Agreements concluded without our knowledge with one of our representatives or auxiliaries shall not be binding to us, unless our customer informs us immediately and we confirm them to him in writing.

## **E) OBJECT OF THE DELIVERY AND DELIVERY TERMS**

- The delivery exclusively includes the object specified in this contract. Unless otherwise agreed, neither foundations, cabling channels, supply pipes and connections e.g. for electricity, water, pressurized air, vacuum, gas etc. nor draining pipes and installations, connections linking the furnaces, thermic installations, generators, draining devices and working places nor displacement of such pipes, nor the assembly and small assembly material, nor the training of the personnel or the start-up shall be included.
- The delivery term runs from reception of the order onwards, but in no case before having settled open questions or before our client has supplied us with all documents he is in charge of, material that he has to supply or any other service incumbent upon him and before the agreed payment has not been effected.  
The delivery term shall be considered as respected if, before its expiration, the object has left one of our factories or if the client has been notified of its availability. In case of tests scheduled before the delivery, the agreed delivery term applies to the reception of the object in our factories and not to the actual delivery at the customer's premises.  
The delivery term shall be deferred by the period in which our client is late in the execution of its duties, including if the payment terms are not respected, if the letters of credit are opened too late, or if the import licenses do not arrive in time. Moreover, the delivery term is equitably deferred in case of unforeseeable obstacles, in particular in case of force majeure, and in case of events beyond our reasonable control including perturbations in the operations, strikes, lock-outs, pandemic, whether at our or the customer's premises, as far as it is proved that these events hindered, to an important extent, the production or delivery. Our client shall not be entitled to claim any right out of these events.
- If unforeseeable events influence to an important extent our activities or those of our suppliers and make it impossible for us to execute our work, we reserve the right to depart from the contract as far as the circumstances require. If we intend to make use of this right, we shall inform our customer as soon as the impediment is recognizable by us, and this even if a prolongation of the delivery term has been initially agreed with our client. If we depart from the contract under these circumstances, our client shall not claim any damages or other rights.
- Delay penalties are only accepted if mentioned in the contract. They shall not exceed 5% of the total amount of the contract. The first two weeks of delay give no rise to a compensation payment.
- If for any reason imputable to the customer, the object can not be delivered, we reserve the right to proceed to the stocking of the installation and this at his expenses and his risks.

## **F) RECEPTION, TESTS**

- The reception of the object of the contract in our factories require a prior written agreement.
- The said reception is considered as control by the client of the conformity of the object of the contract.
- If, for reasons, for which we are not responsible, the tests prior to the reception can not be executed on the agreed date, the qualities that should have been confirmed shall be deemed to be existent; the reception shall be considered as effectuated.
- If the tests reveal that the material does not comply with the contract, our customer shall give us immediately the opportunity to correct these defaults in the shortest delay. Our customer can not refuse the reception on grounds of minor defaults.
- The tests prior to the reception are subject to a protocol signed by both parties.

## **G) PRE-RECEPTION, RECEPTION**

- Prior to delivery, a pre-reception is organized in our factories. The said pre-reception serves as reception in case that the assembly and start-up should not be part of the contract.
- The installation is deemed to be accepted and delivered with the signature of the reception protocol signed by both parties.

## **H) PRESCRIPTIONS AT THE PLACE OF DESTINATION**

- Our customer shall indicate all legal, administrative, internal and other prescriptions with regard to the execution of the object of the contract, its transport, its use or the injury and illness prevention. If the said prescriptions have not been known at the moment of the elaboration of the offer, we reserve the right to adapt our prices accordingly.

## **I) PRICE, PAYMENT**

- Unless otherwise stated, our prices are net prices in Swiss francs, for the goods not packed in our factories. Any labor including connections, assembly, start-up, training of the staff or any modification not stated in our offer shall be invoiced separately.
- If price determining factors change in the period between the conclusion of the contract and the delivery, we reserve the right to adapt our prices accordingly.
- The payment terms are indicated in our offers and order confirmations.
- The payment of a due amount shall not be delayed for any reason and shall be made without any deduction of discount, charges or emolument of whatsoever nature. The date of payment shall be deemed to be the reception by our accountancy department.  
We are not obliged to accept bills of exchange in payment; the charges, which they may imply, shall be borne by the customer.  
In case of a late payment, we count an interest of arrears calculated according to the interests and charges applied by the major banks, without having to assign before a term to our client to settle the payment.
- In case of partial deliveries, the price is due in proportion of the value of the effectuated deliveries. In case of assembly at the customer's premises, any delay beyond our control shall not entitle the customer to defer the payments.  
We reserve the right to suspend our deliveries if the customer does not respect the payment terms. In such a case, any overdue notice of our customer remains without juridical effect.
- The payments are only valid if paid directly to our Company. Our auxiliaries, representatives etc. can not collect them legitimately, unless they present an authorization.

## **J) TRANSFER OF RISKS, DELIVERY, RECEPTION**

1. The risks are transferred to the customer at the latest at the time of the shipping of the object of the contract or at the time of the reception of the notice of its availability, even if we are still in charge of other works including freight, assembly etc. Any freight insurance has to be concluded by our customer at his expense.
2. We shall be entitled to conclude freight contracts in the name of our customer and to determine the itinerary and the means of transport. The terms of delivery are EXW CH-2942 Alle according to Incoterms 2010.
3. The dispatched deliveries have to be accepted by our customer, even if they should show defaults; the rights provided for under « WARRANTY » remain reserved. The deliveries have to be controlled upon reception; any complaints have to reach us not later than 8 days after delivery. Any damages have to be notified in writing to the forwarding agent.

## **K) ASSEMBLY, MAINTENANCE AND REPAIR**

1. The work is effectuated according to our general conditions of assembly as stipulated in the contract.

## **L) RETENTION OF TITLE**

1. The object of the contract remains our property until the customer has fulfilled all the obligations arising from the contract.  
Our customer can not put in pledge or give in security, in any other form, the objects subject to our retention of title clause. If the said objects are claimed by a third party, our client shall inform us immediately, supplying us with the address of the third party.  
The sale of the objects subject to the retention of title clause is not authorized without our agreement. The customer's debt against his buyer is considered as having been sold to us.  
If the customer is in default of payment, he shall lose all rights to property with regard to the object of the contract. He shall bring the transfer of propriety to the attention of his debtors and inform us on his measures.  
If we demand the restitution of the object of the contract, we do this to guarantee our credit; this does not mean that we depart from the contract  
Our customer assumes the risk of a fortuitous destruction of the object of the contract, which he shall adequately insure; his claims against the insurance company are ceded to us for the duration of the retention of title.

## **M) WARRANTY**

1. The installation has a 12-month warranty period from the signature of protocol on commissioning/final acceptance, however from max. two months after receipt of the installation. Warranty period may be extended with an additional 12 months when a maintenance contract for the installation is confirmed.  
The warranty term can not be extended as a result of damages. For repaired or replaced parts, the warranty expires at the same time as for the main delivery.
2. We commit the Company to repair or replace, at our choice, as soon as possible and after a written notification of our customer all parts recognized as faulty or unusable, if the default is due to a faulty or inappropriate material or a construction or manufacturing error. The replaced parts become our full property.
3. Our warranty excludes:
  - Parts exposed to changes in temperature, such as baskets, grids, loading devices, transport rollers as well as all elements intended to receive and transport the parts to be processed.
  - Damages imputable to natural wear.
  - Damages imputable to insufficient maintenance, refurbishments or controls, inobservance of instructions with regard to safety, assembly, start-up or use of the object, negligence, brutal or inappropriate use, surcharge or use of inadequate material.
  - Construction, repair or maintenance works not effectuated by us.
  - Damages imputable to atmospheric conditions, chemical or electrolytic influence as well as any harmful influence from the surrounding environment.
  - Damages or destruction of elements of the installation due to noxious substances or gas not mentioned in our offers or order confirmations.
  - Secondhand installation or materials.
4. The warranty shall become null and void if our customer or a third party modifies the object of the contract, completes it in particular by adjunction of new devices, or repairs it without our prior written authorization. This also applies if our customer omits to take immediately all necessary steps to prevent an aggravation of the damage or if he does not allow us to intervene in order to remedy. The warranty also becomes null and void if the payment terms are not respected.  
The warranty shall become null and void if maintenance works don't meet our instruction manual.
5. No claim shall be lodged against us for any production losses linked to interventions under warranty.

## **N) SPARE PARTS**

1. The customer shall provide for a spare parts stock. At no time, we can guarantee immediate supply. Certain elements may require delivery terms up to 3 months!!
2. During the warranty period, we can set up, upon request and at the customer's expense, a stock of spare parts in our factories or at the customer's premises. In case of replacement under warranty, the replaced part will be reimbursed.
3. The supply of spare parts will be guaranteed for a period of 10 years after delivery.

## **O) DAMAGES**

1. Except for mandatory provisions of the law, our customer shall not have the right to claim for damages, in particular for damages not directly affecting the delivered object such as damages to processed parts or other indirect damages of whatsoever type or nature.

## **P) RESALE, REEXPORTATION**

1. We decline any liability as a seller if our products are exported or sold in North America.  
This provision shall be transferred to any intermediary or final buyer.

## **Q) RIGHT TO RESCIND FOR TECHNICAL REASONS**

1. If our client puts forward technical particularities, which we can not satisfy without excessive expenses, we shall have the right to depart from the contract without incurring any obligation.

## **R) PROTECTION OF DATA**

1. Unless otherwise agreed, we shall have the right to process all data related to our customer within the context of our business relationship, subject to data protection laws.

## **S) JURIDICAL RELATIONS / COMPLEMENTARY TERMS IN CASE OF INTERNATIONAL SALE**

1. Applicable law. The contract shall be governed exclusively and without any reserve by Swiss law.
2. Language of the contract. The language of the contract is French. However, according to the needs and possibilities, all documents will be accompanied by a translation, indicated as such, in German or English. In case of divergences between the original text and the translation, the original French version will prevail.
3. Delivery terms. The deliveries are effectuated conforming to the clause EXW CH-2942 Alle according to Incoterms 2010.
4. Place of fulfillment of all deliveries and services as provided for in the contract is CH-2942 Alle or the place of delivery indicated in the contract conforming to the clause EXW according to Incoterms 2010.
5. International arbitral court. Any dispute related to the contract shall be definitely judged, according to the mediation rules of the International Chamber of Commerce, by one or more referees designated in conformity to this rule.  
The place of the arbitral procedure shall be designated by the arbitral court.  
With regard to the sales in Switzerland, the parties agree, in case of dispute, that Porrentruy is the sole place of jurisdiction.
6. Technical norms and safety prescriptions. Our products are manufactured according to the norms valid in Switzerland, in conformity with technically recognized rules and Swiss safety prescriptions. Foreign customers who wish modifications or application of additional safety regulations shall discuss them with us for every single case. Such arrangements shall not acquire contractual force before the time of our written confirmation. In absence of such an agreement, our customer shall have no legal claim arising from the safety prescriptions of any other country than Switzerland.

## **T) EFFECTS OF THE CONTRACT**

1. If, for any reason, any of the above-mentioned provisions should be invalid, the Swiss law shall apply; this shall not affect any other term of sale and delivery or the validity of the contract itself.
2. In case of invalidity of certain provisions of the contract, the other provisions remain fully applicable.
3. For any point not determined by the present terms of sale and delivery, the Swiss law shall be, exclusively and without limitation, applicable.

CODERE SA, 2942 ALLE