



## **General Terms and Conditions of Sale and Delivery**

### **Article 1. General**

1. These terms and conditions of delivery and payment apply to all offers made by us, all orders received by us and all contracts concluded with us. Any reference to the client's own general terms and conditions during any phase of the conclusion of a contract whatsoever are explicitly rejected.
2. All trade terms used by us and the client shall be interpreted in accordance with the ICC Incoterms as adopted at the time the contract in question is concluded.

### **Article 2. Offers, Formation and Content of Contracts**

1. All our offers and estimates are free of obligation, unless otherwise specified in writing. A contract shall only be concluded if and in so far as we accept a client's order in writing or if we actually carry out the order.
2. The date of formation of a contract shall be the day on which we send our written order confirmation or the first day of actual fulfillment of the order by us.
3. Unless otherwise indicated in writing, any written order placed with us shall be considered to be irrevocable, unless the order has not been confirmed within a period of four (4) weeks after the day on which we received it. We shall not be under any obligation to accept an order.
4. Additional and varying stipulations in the order in relation to our offer or estimate shall only be binding on us if and in so far as we have accepted these stipulations explicitly in writing.
5. All statements of numbers, dimensions, weights and/or other product information shall be formulated carefully. Nevertheless, we cannot guarantee that no deviations occur. Samples, drawings, models, etc., shown or issued shall only serve as indications of the products in question. We shall be entitled to deliver up to 10% more or less than agreed.
6. If, in the written contract concluded with the client or in our order confirmation, we refer to technical, safety, quality and/or other regulations relating to the products, the client shall be deemed to be cognizant of the same, unless the client gives us written notification to the contrary without delay, after which we shall inform the client of these regulations. The client undertakes to inform its customers in writing of the aforementioned regulations at all times.

### **Article 3. Prices**

1. Unless explicitly agreed otherwise in writing, our prices shall be ex works in accordance with the most recent version of the Incoterms, which means that they are exclusive of any transport and/or shipment, packaging, insurance and any duties, taxes or other levies imposed by the government.
2. If the prices of one or more of the cost price factors are increased after the date of formation of the contract but before the order has been completed, we shall be entitled to increase our prices accordingly.
3. Unless explicitly specified otherwise, our prices shall always be considered to be stated in Thai Baht. If it has been agreed that prices are stated in a different currency, we shall be entitled to charge the client for any differences in exchange rate compared with the exchange rate applicable on the day of formation of the contract.

### **Article 4. Delivery time**

1. The delivery time, which shall also be considered to refer to the term required for the work to be performed by us, will commence on the day specified in our written acceptance of the order.
2. If certain data, drawings, etc., are necessary or if certain formalities are required for the fulfillment of the order, the delivery time will not start until we have all data, drawings, etc., in our possession or until the required formalities have been completed.



3. If we require an initial payment at the time of the order, the delivery time will start at a time after the written acceptance of the order or receipt of the aforementioned documents, viz. the moment we receive the said payment.
4. The delivery times specified by us shall be indicative and subject to unforeseen circumstances and shall, therefore, not be strict deadlines. We shall inform the client in the event that we exceed or expect to exceed any delivery date. We shall be entitled to make partial deliveries.

#### **Article 5. Force Majeure**

1. In the event of force majeure, we shall be entitled to suspend our obligations, including delivery and delivery time compliance, for as long as the force majeure continues.
2. The following shall be considered instances of force majeure: war, threat of war, civil war, riot, the taking of hostages, acts of war, fire, water damage and flooding, strike, sit-down strike, breakdown, lockout, lack of personnel or base materials, defects in machines or plant, failures in the supply of energy, delayed delivery by our suppliers – all this either in our company or at third parties from which we procure all or part of the required materials or base materials, also during storage or transport handled by us or other parties – and, moreover, any and all causes arising through no fault of our own.
3. In the event of force majeure, claims for compensation on account of a breach or partial breach of contract shall be excluded.

#### **Article 6. Delivery**

1. Products shall be deemed delivered as soon as they have left our premises or we have informed the client in writing that they are ready for dispatch, without prejudice to the provisions on the retention of title.
2. This means that our premises shall be considered the place of delivery, even if delivery or transport free of charge has been agreed.
3. In the event of delivery in partial consignments, each individual consignment shall be considered delivered.

#### **Article 7. Risk, Shipment & Transport**

1. The risk shall be transferred to the client at the time of delivery.
2. If the client does not duly accept delivery, the client shall be in default without notice of default being required.
3. In that case, we shall be entitled to store the products at the client's expense and risk or to sell them to a third party.
4. The client shall be obligated to pay the purchase price plus interest and all expenses, but, where appropriate, with deduction of the net proceeds of the sale to the third party.
5. Unless agreed otherwise in writing with the client, if the client wishes us to handle the dispatch and/or transport of products, we shall dispatch and/or transport them at the client's expense and risk to the address of the client's business premises and we shall not insure the products against transport risks.

#### **Article 8. Retention of Title**

1. The title to the products shall not be transferred to the client until the client has fulfilled any and all relevant obligations under the relevant contract or any related contract. Apart from payment of the purchase price, obligations shall be considered to include any work performed or to be performed in respect of the products, as well as all surcharges, interest, taxes, expenses, etc., due under the contract.
2. Until such time, the client shall not be entitled to alienate, pledge, pawn, mortgage or transfer these products to third parties in any other way.



3. The client shall enable us immediately to take back the delivered products, without further notice of default or court intervention, if and in so far as the client has failed to fulfill any of its financial obligations at the end of the credit term.

#### **Article 9. Payment**

1. Unless agreed otherwise in writing, payment is to be made, at our discretion, either 100% cash before delivery or cash on delivery or within 30 days after delivery. All payments shall be made without any deduction or set-off. We shall be entitled to apply payments received to outstanding invoices in the order of our choice, even if the client has indicated otherwise. If the client is of the opinion that it is entitled to assert any claims whatsoever in respect of the delivery or fulfillment of an order, this shall not release the client from the obligation to pay as agreed and the client shall not be entitled to defer payment.
2. If we should have reason to doubt our client's financial position at any time, we shall be entitled to postpone the fulfillment of our obligations and require full or partial advance payment of the purchase price from the client or to require that the client provide satisfactory security. In that case, we shall also be entitled to dispatch products on condition of cash on delivery only.
3. By the mere lapse of any credit term, the client shall be in default by operation of law. In that case, all claims we have against the client shall become immediately and fully exigible, without prejudice to any other rights we may have.
4. Without any notice of default being required, the client shall owe interest on any and all amounts not paid on the last day of the credit term, which interest shall be payable as of that day and shall equal the statutory interest applicable in Thailand at such time. At the end of every year, the amount on which interest has been calculated shall be increased by the interest due for that year.
5. If the client has still not paid the amount and interest due after the lapse of the additional credit term specified in writing, the client shall be obligated to pay us all judicial and extrajudicial costs, which are set at a minimum of 15% of the outstanding amount and shall at all times total at least 100,000.00 Thai Baht, exclusive of turnover tax.
6. Every payment we receive from the client shall first be applied to those claims we have against the client that are not or no longer subject to the retention of title.
7. If we have agreed with the client that payment is to be made via a bank or if security is provided by means of a documentary credit or bank guarantee, the client shall guarantee that the same will be effected by a first-rate bank. If, in all fairness, we have reason to doubt the said qualification, we shall be entitled to reject the proposed bank and to appoint a different bank.

#### **Article 10. Dissolution**

1. In the event that the client does not duly fulfil any of its obligations under the contract concluded with us, the client shall be in default and we shall be entitled:  
-to postpone the performance of the contract and any contracts directly related to it until such time as payment has been sufficiently guaranteed;  
-and/or to dissolve the contract and any contracts directly related to it in whole or in part  
; without any notice of default or court intervention being required and without prejudice to any other rights we may have.
2. In the event of bankruptcy, moratorium, shutdown or winding-up of the client's company, we shall be entitled to dissolve the contracts with the client with immediate effect.

#### **Article 11. Cancellation**

1. The client can only legally cancel any order granted to us with our written consent.
2. We shall be entitled to make our consent conditional on the client's obligation to indemnify us against all costs, which shall at least 95% of the agreed total contract value, without prejudice to our right to claim full compensation for all costs and damage.
3. We shall under no circumstances be obligated to give our consent.



4. The client shall be obligated to indemnify us at all times against third-party claims ensuing from cancellation of the order.

#### **Article 12. Inspection and Complaints**

1. The client shall carefully inspect or have a third party acting on its behalf inspect the products immediately after they have arrived at their destination or after the client has accepted delivery of the same.
2. Any complaints regarding defects in the products must be communicated to us in writing within ten working days after arrival of the products or, as the case may be, completion, without prejudice to the provisions of paragraph 3 of this Article. If inspection has taken place on our business premises, the client must ensure that any complaints are made during this inspection and recorded in writing.
3. Any defects that cannot reasonably be detected within the aforesaid term must be communicated to us in writing immediately after they have been detected, in any event within the applicable guarantee period.
4. Complaints regarding invoices can only be made in writing within ten working days after receipt of the invoices, with the date of receipt being one day after the date of the relevant invoice.
5. Minor deviations within the usual tolerances shall not constitute grounds for the client to lodge a complaint, claim compensation or request cancellation of the order.
6. If a complaint is not made within the terms specified in this article, the client shall forfeit its claim with respect to such defects.
7. After a defect is detected, the client shall be obligated to stop the use, treatment, processing or installation of the products in question immediately and shall lend all co-operation we require to investigate the complaint, which shall include giving us the opportunity to conduct or have a third party conduct an investigation on site into the circumstances of treatment, processing, installation and/or use.
8. The client shall not be entitled to lodge complaints regarding products for which we cannot verify the complaint. The client shall not be free to return any products before we have agreed to this in writing.

#### **Article 13. Guarantee**

1. We offer a guarantee on material and manufacturing defects for a period of twelve (12) months after delivery, in so far as these defects concern explicitly formulated quality stipulations or explicitly agreed quality standards and, moreover, with due regard for the terms and conditions of inspection and complaints and any other provisions of this Article 13.
2. Under our guarantee, we shall remedy defects at our own expense or – at our sole discretion – take back all or some of the products delivered and replace them, on condition that we have stipulated the same guarantee with our supplier.
3. If, in our opinion, repair or replacement is not possible, we shall be entitled instead to repay, by way of final discharge, any amounts received.
4. The scope of our guarantee is confined to the extent to which we can hold our supplier liable for the alleged defect.
5. Our guarantee does not mean that we ensure that the product is suitable for the purpose for which the client wishes to use, consume or process it, unless we have explicitly guaranteed the same in our order confirmation. Unless explicitly otherwise agreed in writing, we shall only be obligated to fulfill the guarantee obligations within Thailand.
6. If we replace products delivered or parts thereof in order to meet our guarantee obligation, the replaced products or parts will become our property.
7. All costs exceeding the obligations stipulated above shall be borne by the client, including transport costs, travelling expenses and the costs of disassembly and assembly.
8. Our guarantee shall not apply if:
  - A. the defects are the result of injudicious use or causes other than defective material or manufacturing, such as storage for longer periods than usual;



- B. in accordance with the order, we deliver used material or used goods;
- C. the cause of the defects cannot be demonstrated unambiguously;
- D. instructions and other specific guarantee conditions for the products have not been complied with fully and to the letter;
- E. the defects are wholly or partly the result of government regulations regarding the quality or nature of the used materials or manufacturing;
- F. during the guarantee period, the client makes or has a third party make modifications and/repairs to the delivered products on its own initiative;
- G. the client does not duly fulfill any obligation under the contract or any contract related to it.

#### **Article 14. Liability**

- 1. Our liability is limited to fulfillment of the guarantee obligation referred to in Article 13.
- 2. Except for our guarantee obligations, we shall under no circumstances be liable for any damage incurred by our client, including consequential loss, sentimental loss, trading loss or environmental damage, or damage as a result of third-party liability.
- 3. If and in so far as the competent court deems us to be liable in spite of the provisions of paragraphs 1 and 2 of this Article, our liability vis-à-vis the client, for whatever reason, shall at all times be limited to the amount of the relevant contract sum, exclusive of turnover tax, per event (with a related series of events being considered a single event).
- 4. The client is obligated to compensate us for and indemnify us against all expenses, loss, damage and interests that may ensue for us as a direct result of third-party claims against us in relation to events, acts or omissions during or within the framework of the fulfillment of the order for which we are not liable vis-à-vis the client under these terms and conditions.

#### **Article 15. Applicable Law, Competent Court**

- 1. All contracts concluded with us of which, any or all of these terms and conditions are part shall be governed by law of Thailand. Parties shall be considered to have elected domicile in the town where we have our registered office.
- 2. Any disputes that arise as a result of contracts concluded with us or these general terms and conditions shall, in so far as not dictated otherwise by mandatory law, be brought before the competent court in the town where we have our registered office, unless the parties have explicitly agreed otherwise in writing.
- 3. The applicability of the Vienna Sales Convention shall be excluded, unless parties have explicitly agreed otherwise in writing.