

GENERAL TERMS OF SALE

1. General provisions

- 1.1 All deliveries and performances from SECO/WARWICK S.A. (hereinafter referred to as SWSA) are subject to the below stated principles which constitute an integral part of the contract and which the BUYER confirms to understand as complete and exclusive expression of the contract between the BUYER and SWSA. Any supplementary or different conditions or provisions will be binding only as far as they have been approved by SWSA in writing.
- 1.2 The principles stated below are considered accepted when the BUYER accepts the SWSA quotation through lodging their order or signing a contract.

2. Quotation / order confirmation

- 2.1 SWSA quotations are binding for SWSA only if explicitly stated so.
- 2.2 The BUYER'S order is not binding until confirmed by SWSA in writing and only within the scope of such confirmation.

3. Documents

- 3.1 Specifications printed in catalogues, promotional brochures, quotation and contract documents in the form of illustrations, drawings, dimensions, weights, consumption and output factors as well as other specifications are only rough data and are not binding for SWSA unless explicitly stated otherwise.
- 3.2 In exceptional cases SWSA reserves the right to alter the design, especially if this is justified by the need for material replacements not leading to deterioration of product quality.
- 3.3 Intangible property rights protected by the provisions in the act on industrial property rights and the act on copyright, especially articles protected with property rights, patents for inventions, utility designs, trademarks, trade names, marks of origin, names of origin, topographies of integrated circuits, improvement designs, information on the proper use of inventions, other information and tests of technical nature which are directly ready for use in business and research activity, information of organizational nature, as well as other made available to the BUYER by SWSA when fulfilling the duties and obligations hereunder, are the property of SWSA. Property rights to the products on which they have been recorded and transferred to the BUYER are vested with SWSA. The BUYER has no rights whatsoever to use them for other purposes or to copy them, make multiple copies thereof or to make them available to third parties. Such documents do not transfer the ownership title or imply granting of any licence. Drawings and other documents which remain the property of SWSA must be returned immediately to SWSA on request together with all copies that had been made of them.
- 3.4 The BUYER shall not use for any other purposes, as well as not make available to any other parties any elements, information and technical documentation on which manufacturing of the equipment ordered by the BUYER was based.
- 3.5 After selling the equipment SWSA is entitled to enter the unit sold and the customer's data onto a standard referential list covering the name and type of equipment, date of sale, name of customer and country. Signing of these General Terms of Sale is tantamount to agreeing to have such data included in the referential list. Reservations, if any, may be forwarded by the customer in writing.
- 3.6 The parties hereto shall be obliged to keep secret – during the term of the Agreement on General Terms of Sale and after it has been dissolved - of any information pertaining to the contents of this agreement as well as the activities run by the other party, which are of confidential nature and disclosure of which may be to the prejudice of the other party.
- 3.7 None of the parties hereto can, without a written consent of the other party, disclose any information on the present agreement. This restriction does not refer to disclosing information to any authorities, institutions and courts – if such an obligation has been imposed on by the regulations in force, as well as to businesses rendering services in business, legal, financial or tax consultancy, and services similar to them (including auditors of the Parties hereto); provided that the Parties shall bear full responsibility for keeping this information secret by the organizations referred to above.

4. Prices, packaging, insurance, permits

- 4.1 SWSA sales prices are quoted net and as such do not incorporate the value added tax, customs duties and other fees which SWSA may charge the BUYER pursuant to law regulations currently in force.

- 4.2 In case, as it may be specified in Polish regulations, the goods on offer require export permit, the BUYER shall provide SWSA with Import Certificate issued by a relevant governmental authority of his country or End User Statement in accordance with requirements defined in art. 23 in the Act (of November 29th, 2000 on foreign trade in goods, technologies and services of strategic importance to the security of the State and to maintaining international peace and security) of the content required by the Polish Economic Security Department (DBG), each time within 30 days upon signing the contract.

- 4.3 The BUYER acknowledges that export of the equipment without the above-mentioned permit cannot be performed. In the case the above-referred to period of 30 days is exceeded, the dispatch of the goods shall be prolonged by the time by which it has been delayed. All the costs and risks due to the delay of the dispatch shall be borne by the BUYER.

5. Transfer of risk

- 5.1 Unless clearly stated otherwise, the risk is transferred onto the BUYER as of the moment the goods are made available to his disposal in accordance with the EXW Incoterms 2010 rules. In other cases the risk is transferred onto the BUYER from the moment the goods are trusted with the first carrier.
- 5.2 In the event the shipment is delayed due to the BUYER's failure to perform their duties or if the delay results from reasons independent of SWSA, the risk is transferred onto the BUYER from the moment they are informed by SWSA about readiness to dispatch.

6. Delivery terms and dates

- 6.1 Detailed delivery dates are agreed by the parties in the contract, these dates are of an approximate character and are not binding upon SWSA. SWSA shall take every endeavour to meet delivery dates, however adherence to delivery date depends on timely fulfilment of contractual obligations by the BUYER, including the date of accepting the offer and furnishing the necessary information as well as timely fulfilment of contractual duties by contracting parties or sub-suppliers of SWSA, so that SWSA can fulfil its obligations undertaken towards the BUYER. Any alterations requested by the BUYER may cause extension of delivery date. The goods are considered to be delivered on time if they are transferred to the first carrier or if they are notified as ready for shipment before the contractual delivery date. Partial shipments are allowed. Minor defects do not influence the BUYER's obligation to receive the goods; in such a case it is assumed that the delivery date has been maintained. The place of delivery shall be the registered office of SWSA upon terms and conditions of EXW Incoterms 2010, unless otherwise agreed upon by the Parties.
- 6.2 In the event a delivery is delayed for the reasons attributed to the BUYER or if the BUYER fails to receive the shipment in due time, SWSA have the right, at their discretion and with no right for BUYER to claim any compensation, to store the goods at the BUYER's risk, invoice them as EXW and charge the BUYER with storage cost. If storage is effected in SWSA warehouses the storage cost is not less than 1,0% of the invoice value for each month beginning from the date of notification of readiness to ship. SWSA have the right to assign another date of reception and after that date they have the right to sell or to arbitrarily dispose of the goods. Sale of goods or another disposal thereof do not discharge the BUYER from payment for the goods.
- 6.3 In case the delivery is delayed for unforeseeable reasons beyond SWSA control - acts of God, force majeure, the delivery date will be reasonably extended. In such an event the BUYER is not entitled to terminate the contract nor to submit any claims for delay of delivery.
- 6.4 Without bearing any responsibility nor waiving any claims against the BUYER, SWSA may rescind the contract, refuse to perform the delivery or delay it without bearing any liability in any of the following situations:
- 6.4.1 The BUYER has not observed or does not observe any of the provision in the order or the agreement.
- 6.4.2 Refusal of or a delay in the delivery has been caused by circumstances being out of control of SWSA, not restricted only to force majeure or national enemy, which may have been brought about by such events as: fire or other unfavourable events, strikes, problems with labour, negligence on the part of the BUYER, lack of labour force, missing materials, breakdowns, delays in material supply by sub-suppliers, refusal of or delay in issuing the relevant permit by the Polish DBG (Department of Economic Security).

6.4.3 The BUYER is planned to be subjected to bankruptcy, liquidation or insolvency, his property is pledged covering creditors' security interests, or proceedings in bankruptcy or proceedings to declare bankruptcy have been commenced against him.

7 Terms of payment

- 7.1 Payments should be effected according to the provisions of the contract or order confirmation.
- 7.2 Payments are effected exclusively into SWSA account and are free of transfer charges, effected at agreed date without incurring SWSA with deductions, costs and expenses due to acceptance of a bank guarantee, a bill of exchange or a cheque.
- 7.3 The parties hereto exclude the right to deduct claims under the present agreement with any other claims.
- 7.4 If delivery, assembly or start-up are delayed for the reasons beyond SWSA responsibility, the payments are due as of the originally agreed date.
- 7.5 A failure by the BUYER to perform any payment at dates defined in this contract will entitle SWSA to interrupt the work and adjust the delivery date or to deliver after receiving payment. Should such default in payment extend beyond 60 (sixty) days after the required date, SWSA may at any time after that date block the operation of equipment, cancel this contract by notification to the BUYER by letter or e-mail. Afterwards, SWSA will have the right to recover the cost of work done and materials delivered and the cost of any damage SWSA have incurred.
- 7.6 Failure to pay by the BUYER within the required period will constitute a basis to dismiss any claims of the BUYER to SWSA in relation to the delayed delivery or delayed work completion caused by work stoppage resulting from default in payment.
- 7.7 Effective date of payment is the day when the amount due is received at SWSA bank account.
- 7.8 A form of compensation shall be contractual penalties resulting from the following:
- 7.8.1 SWSA shall pay to the BUYER contractual penalty of 10% of the remuneration to SWSA referred to in §4 for withdrawal from the contract by any of the parties due to the fault of SWSA.
- 7.8.2 In case the BUYER withdraws from the contract due to the reasons not attributed to SWSA, he shall pay to SWSA a remuneration of 10% of the contract value and shall pay all the costs due to the performance of a part of the contract as well as shall pay for the purchased/ordered yet not installed materials and equipment, the deliveries/production of which cannot be cancelled. SWSA shall be obliged to evidence the value of the materials and equipment subject to payment which have not been installed. In the situation referred to herein, within 7 days upon withdrawal from the contract by the BUYER, the parties shall make an inventory of works in progress and shall draw up a report specifying the value of these works as well as the value of the ordered and purchased materials and equipment. This report shall make grounds for issuing an invoice by SWSA. In the case the BUYER does not make the works inventory, SWSA shall make it independently and shall issue the invoice.
- 7.9 The above arrangements shall not limit SWSA right to claim damages in excess of the contractual penalties.

8 Retention of title

- 8.1 SWSA reserves the property title to the goods delivered until full payment is received including all claims resulting from the transaction between SWSA and the BUYER. If the BUYER is in default of any payment due, SWSA reserve the right to demand return of the goods as security of claims.
- 8.2 Throughout the period of retention of title the BUYER is not entitled to pledge or to otherwise encumber the goods that are of the status of SWSA property entrusted with the BUYER. The transfer of the property title for those goods onto third parties as a claims security is forbidden.

9 Guarantee and warranties

- 9.1 SWSA guarantees that the goods sold pursuant to these terms are free of defects, whether physical or legal.

- 9.2 Liabilities or warranties by SWSA do not cover the manufacturing process or production quality for which the goods may be applied.
- 9.3 In no event whatsoever shall SWSA be held liable for any loss, damage or expenses resulting directly or indirectly from the application of their equipment including (but not restricted to) indirect damage and conditional liability of any nature.
- 9.4 On no account shall SWSA be liable for a loss in the profits that the BUYER would incur as a result of non-performance or negligent performance of any of the provisions herein by SWSA.
- 9.5 This guarantee does not cover easily worn components such as (but not restricted to): light bulbs, fuse elements, seals, wedge belts, glass tubes of rotameters, filter inserts, glow plugs, workload fixtures, thermocouples and vacuum heads, heating elements and screens made of hard fusible materials for vacuum furnaces, oils for mechanical and diffusion vacuum pumps, elements of heat-resistant steel working in high temperatures and elements such as workload slides, ceramic furnace hearth and minor ceramic elements. The guarantee does not cover defects resulting from improper use or neglect on the part of the BUYER of carrying out periodic inspections and maintenance procedures as provided for in the Instruction Manual.
- 9.6 This guarantee does not apply in the case the BUYER has introduced any alterations or modifications or if the erection, assembly or start-up were carried out without SWSA supervision or in a way incompatible with the methods recognised by SWSA.
- 9.7 Components and materials used for manufacturing SWSA products are covered with their manufacturers warranties. SWSA will enforce the rights from this title on behalf of the BUYER.
- 9.8 SWSA shall effect free of charge repair or replacement of all elements which are recognised and confirmed by SWSA as faulty or the condition of which have deteriorated significantly provided that the faults have occurred within 12 months from product start-up but not later than 18 months from the date of dispatch. In the event of erroneous design, material, workmanship or manufacturing faults SWSA remain fully liable under this guarantee.
- 9.9 SWSA commit to start a repair under guarantee not later than 10 days from being notified about a fault.
- 9.10 Notification of a fault must be forwarded immediately but not later than 7 days from the day it occurred under pain of forfeiture of the guarantee. A complaint must contain a description of a fault.
- 9.11 BUYER's claims from warranty are excluded.

10 Final provisions

- 10.1 All arrangements so far concluded between the Parties of the contract, whether oral or written, which are contradictory or incompatible with the contract between the parties or with these general terms of sale are hereby rendered void.
- 10.2 In case the provisions herein become ineffective or unenforceable, they should be replaced with such effective and enforceable provisions that would reflect in the best way the intention, the business purpose and the expectations of the Parties when signing this agreement. If ineffectiveness of a single or a few of the provisions herein infringed the binding law, or if they could not be enforced, no matter if they are to be treated together or separately, which depends on the validity of a relative provision, and as the result if the passage infringing law has to be removed, a new corresponding passage should be stipulated so that its sense can be acceptable in terms of law. If this is not possible, the desired goal should be achieved by replacing the whole provision so that it can be as close as possible to the business target and intentions of the Parties when signing this agreement. The agreement shall continue to be binding if one of its provisions is and continues to be invalid.
- 10.3 Any disputes that might arise in connection with this contract will be subject to Polish Civil Courts having jurisdiction over SWSA headquarter town.
- 10.4 The regulations of the Polish Civil Code shall apply for all issues not settled in this contract.