



General Terms and Conditions of Supply

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I. GENERAL CONDITIONS

1. These General Terms and Conditions of Supply and the Special Terms and Conditions (if any) attached to Trench's (hereinafter referred to as "Supplier") quotation and/or written acknowledgement of order shall govern all transactions between the Parties. In the event of any contradiction between these General Terms and Conditions and the Special Terms and Conditions, the latter shall prevail.
2. The Contract shall be deemed to have been concluded upon receipt of Supplier's written acknowledgement of Customer's order. The scope, quality and all warranties and specifications of any parts, equipment, documentation, goods or products (collectively referred to as "Supplies") shall be exclusively defined by the written provisions of Supplier's acknowledgement and the terms and conditions referred to in paragraph 1 above (herein referred to as "Contract"). Unless otherwise agreed in writing by Supplier any terms and conditions of Customer including general and special terms are expressly excluded.
3. In the event of legal invalidity of individual stipulations, the other parts of this Contract shall remain valid.
4. Customer and Supplier shall each, at their own expense in their respective countries, take such steps as may be required to satisfy any laws or requirements with respect to declaring, filing, recording or otherwise rendering this Contract valid.
5. If the Supplies comprise any standard software available on the market, including any relating documents, the relevant terms of delivery and licensing conditions of the third party suppliers concerned shall apply exclusively.
6. Supplier shall not be obligated to fulfil this Contract if such fulfilment is prevented by any impediments arising out of national and international foreign trade and customs requirements or any embargos or other sanctions.

II. PRICES AND TERMS OF PAYMENT

1. Prices shall exclude any indirect tax, including but not limited to: property, license, sales, use, value added or similar taxes or duties applicable to the transaction or related work. Customer agrees to pay or reimburse Supplier for any such taxes, which Supplier or its subcontractors or sub-suppliers are required to pay.
2. Payments shall be made to the bank account or payment office notified by Supplier free and clear of, and without any deduction, including but not limited to deductions of withholding tax unless Customer is required to make a payment subject to such deduction. In this case the sum payable by Customer in respect of which such deduction is required to be made, shall be increased to the extent necessary to ensure that, after the making of the required deduction, Supplier receives and retains (free from any liability in respect of such deduction) a net sum equal to the amount it would have received had no such deduction been made. Customer shall submit tax receipts of withholding tax

paid to Supplier within four weeks after payment of an invoice, which was subject to withholding tax.

3. In the event Supplier does not receive payment from Customer when such payment has become due and payable Supplier shall be entitled to charge interest at the annual rate of five (5) percentage points above the Base Lending Rate of the European Central Bank.
4. Customer may set off only those claims which are pursuant to this Contract and which are undisputed or have been finally determined in accordance with Clause VIII.

III. TIME FOR DELIVERY AND DELAY

1. The agreed time for delivery shall start in accordance with the provisions of the Contract or if not otherwise stated in the Contract shall start upon receipt of a written order provided that all technical and commercial aspects have been clarified and administrative formalities, such as import, export, transit and payment permits have been obtained or completed.
2. The delivery period shall be reasonably extended if:
 - modifications or supplements are requested by the Customer, thereby causing a delay; or
 - impediments are affecting the performance of the Contract which are beyond the reasonable control of the Supplier and cannot be overcome in spite of taking the required care ("Force Majeure"). Without prejudice to the generality of the foregoing Force Majeure shall include but not be limited to the following events: natural disasters or catastrophic events such as epidemics, nuclear accidents, fire, flood, typhoons or earthquakes; acts or omissions by civil or military government authorities, such as foreign currency restrictions, revocation or suspension of export or import licenses, governmental priority orders, allocations or restrictions upon the use of materials or manpower; war (whether governmentally declared or otherwise), riots, sabotage or revolutions; terrorist acts, strikes or lockouts, delays due to transportation accidents; or
 - the Customer himself or any third party charged by him are in arrears with work to be done by them or in default with respect to contractual obligations.
3. If a fixed time be quoted for delivery, and Supplier is responsible for a delay in delivery and Customer can prove that it suffered a loss from the delay Customer may claim damages for such loss which shall be limited in accordance with the limitation of liability for delays as specified in Clause VII. Any time described as an estimate shall not be construed as a fixed time quoted for the purpose of this Clause.
4. Payment of damages pursuant to paragraph 3 shall be the exclusive remedy of Customer for delay, except for Customer's right to terminate the Contract provided an adequate extension of time granted to the Supplier has not resulted in delivery after the maximum amount of damages under this Contract had become due and Supplier and Customer could not agree upon a further "equitable



compensation “.

5. If dispatch or delivery is delayed at Customer's request by more than one month after notice was given of the readiness for dispatch by Supplier, Supplier may charge Customer storage costs for each commenced month thereafter of 0.5 % of the price of the respective Supplies. In the event Customer suspends the provision of the Supplies, Customer shall reimburse Supplier all additional costs and expenses incurred due to such suspension.

IV. TRANSFER OF TITLE AND RISK

1. If the dispatch, the delivery, the beginning or completion of assembly or erection, the taking over of Customer's own service or the trial run is delayed for reasons within the Customer's responsibility, or if the Customer has failed for other reasons to accept delivery, the risk of loss shall pass to the Customer on the date when it would have passed but for such failure of Customer.
2. Neither the legal nor the equitable title in the Supplies shall pass to the Customer until the Supplies have been paid for in full. Until such time Supplier shall be entitled to retake all or any part of the Supplies in which title remains vested in Supplier and for this purpose Supplier or his agents or authorized representatives shall be entitled to enter upon any of Customer's premises where the Supplies are held or are reasonably believed to be held and repossess the same.

V. DEFECTS LIABILITY

1. Save as expressly provided otherwise, the warranty period for the Supplies is the earlier of twelve (12) months from commissioning or eighteen (18) months from delivery. The warranty period for replaced or repaired parts of the Supplies is twelve (12) months starting, as the case may be, from the moment the replacement has been effected, or the repair work has been finished. In no event shall any warranty period for the Supplies or any repairs or replacements exceed twenty-four (24) months from delivery.
2. The right to raise warranty claims expires prematurely if the Customer or third parties carry out repair work or effect modifications without Supplier's prior written consent, or if the Customer, in the event of a defect, fails to take immediately all appropriate steps to mitigate resulting damage or to grant Supplier the opportunity to remedy such defect.
3. Supplier undertakes to replace or repair at his discretion and as soon as possible upon written notification by the Customer, all parts of the Supplies of which have been proved to have become defective or unserviceable, before the end of the warranty period, due to faulty material or construction, or defective workmanship. The costs incurred in relation with the access, removal, reinstallation shall be assumed by the Customer.
4. Excluded from warranty and liability is all damage resulting from inadequate storage, insufficient maintenance, non-compliance with operating instructions, and misapplication or operation in excess of specified ratings. Warranted characteristics are only those characteristics that have been expressly qualified

as such by respective specifications.

5. The undertaking and obligations of the Supplier under this Clause V are in place of and exclude all other warranties and conditions, whether oral, written, statutory, express or implied and the provisions of this Clause V shall operate to the exclusion of any term which would otherwise be implied by law as to the quality or fitness for any particular purpose or the workmanship of any part of the Supplies.
6. The Supplier's liabilities and the Customer's remedies in respect of defects in the Supplies and any damage to the Supplies resulting there from whether arising from breach of contract or warranty, negligence or otherwise are solely and exclusively as stated in this Clause V, and the Supplier shall have no liability of any kind for any such defects or damage which appear after expiry of the warranty period described above.

VI. INTELLECTUAL PROPERTY

1. The Supplies shall not infringe any intellectual property right including but not limited to patents or copyright (hereinafter referred to as "**Intellectual Property Rights**") granted or registered at the effective date of Contract in the country of destination of the Supplies specified in the Contract (or, if none be specified, in the country of the Supplier).
2. In the event a third party, because of an infringement of Intellectual Property Rights by the Supplies asserts legitimate claims against the Customer, and provided the Customer has immediately notified the Supplier of such third-party claims in writing, the Supplier shall be liable to the Customer as follows:

The Supplier shall at his own option and expense either obtain a right to use the Supplies, modify the Supplies so as not to infringe the Intellectual Property Rights or replace the relevant Supply. If this is not reasonably possible for the Supplier, the Customer shall be entitled to terminate the Contract whereupon the Supplier shall take back the relevant Supply and refund the Contract price for such Supply.

3. The Supplier shall not be liable with respect to any claims of Customer arising out of or relating to (i) design or instruction furnished or given by the Customer, (ii) the use of such Supplies in a manner or for a purpose or in a foreign country not specified by or disclosed to Supplier, (iii) the alteration of the Supplies or (iv) any infringement which is due to the use of such Supplies in association or combination together with products not provided by the Supplier.
4. The foregoing states the Supplier's entire liability for intellectual property right infringement. Further rights and remedies of the Customer, in particular its right to claim damages, whether arising from breach of contract or warranty, negligence or otherwise based on an infringement of third parties Intellectual Property Rights, shall be excluded.

VII. LIMITATION OF LIABILITY

In all cases the party establishing or alleging a breach of contract or a right to be indemnified in accordance with



the Contract shall be under a duty to take all necessary measures to mitigate the loss which has occurred provided that he can do so without unreasonable inconvenience or cost.

1. The Supplier shall not be liable to the Customer by way of indemnity or by reason of any breach of the Contract or of statutory duty or by reason of tort (including but not limited to negligence) for the following (whether direct or indirect):
 - a) any loss of profit, loss of use, loss of production, loss of contracts, loss of revenues or of anticipated savings, any increase in operating costs, payment of interest and other financing expenses;
 - b) loss of information and data, cost of purchase of replacement power, damage to or loss of Customer's property (other than the Supplies);
 - c) claims by Customer for damages of Customer's customers or clients;
 - d) any indirect, consequential, incidental, punitive or special damages.
2. Under no circumstances shall Supplier's total aggregate liability towards Customer exceed the value of the defective Supplies or the amount of 500.000 Euros, whichever is the lower.
3. In the event of any liability or damages resulting from late delivery, the Supplier's liability shall be limited to and by no means exceed 5% of the contract price of that part of the Supplies that is delayed.
4. If the Customer is not or shall not be the sole end user and ultimate owner of the Supplies or is procuring them for the benefit of any kind of joint venture, then the Customer shall ensure by its contract with the end user or ultimate owner or participants in the joint venture that the Supplier is given the benefit of the above stated exclusions and limitations of liability by all such users, owners or participants (which shall apply as if the user, owner of participant were the Customer) and shall indemnify the Supplier against claims of any kind by them to the extent that the Supplier would not be liable therefore to the Customer under this Contract if the claim had been made by the Customer.
5. Any and all liability of Supplier under this Contract shall cease with the expiry of the warranty period.
6. These limitations of liability shall also apply for the benefit of Supplier's subcontractors, sub suppliers, agents, advisors, directors and employees.

VIII. DISPUTE SETTLEMENT / APPLICABLE LAW

1. If any dispute arises in connection with this Contract, the responsible representatives of the parties shall attempt, in fair dealing and in good faith, to settle such dispute. Each party is at any time entitled to terminate the settlement negotiations and to have recourse to an Alternative Dispute Resolution (ADR) proceeding set forth in the following section through written notification to the other party.
2. If the parties are not able to reach an amicable settlement pursuant to the preceding section they shall try to agree on an appropriate ADR

proceeding (for example mediation, conciliation, expert determination, dispute board, adjudication). If they do not reach agreement on the appropriate ADR proceeding within 14 days after failure of the settlement negotiations or if the dispute is not settled through an ADR proceeding within a period of two months after initiation of the ADR proceeding each party may initiate an arbitration proceeding pursuant to the following section.

3. All disputes arising out of or in connection with the Contract, including any question regarding its existence, validity or termination, shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules.
4. The seat of arbitration shall be either at Singapore, Zurich (Switzerland), or Toronto (Canada), whichever is closest to Supplier's head office. The language to be used in the arbitration proceedings shall be English.
5. The Contract shall be governed by the terms set forth in the UN Convention for the International Sales of Goods (CISG). Where the CISG is silent, this Contract shall be governed by and construed in accordance with the laws of England and Wales.

IX. CONFIDENTIALITY AND OWNERSHIP OF INFORMATION

1. Any information made available to the Customer by the Supplier in connection with this Contract shall be treated as confidential. This confidentiality obligation shall not apply to information which Customer can demonstrate:
 - a) is already in the public domain or becomes available to the public through no breach by Customer of this confidentiality undertaking or
 - b) was in Customer's possession prior to receipt from Supplier without a confidentiality undertaking or
 - c) has thereafter been legally obtained without confidentiality obligation from others or
 - d) is independently developed by the Customer who had no access to the information received hereunder.
2. Customer shall not disclose cost estimates, plans, drawings and other documents (hereinafter called "Documents") or information to third parties. Supplier reserves all rights, title and interest in all Intellectual Property Rights in the Documents. Customer may use any Documents or other information which contains Intellectual Property Rights and which has been provided by Supplier only for the purpose of operation and maintenance of the Supplies. Customer shall not use them for other purposes, including but not limited to the reproduction of the Supplies (or any portion thereof) or reverse engineering and/or manufacturing of any components, equipment or parts.

Customer's obligations set forth on this Clause shall survive the expiration or termination of the Contract.

X. COMPLIANCE WITH EXPORT CONTROL REGULATIONS

1. If Customer transfers Supplies, software and/or



technology as well as corresponding Documents, regardless of the mode of provision; delivered by Supplier and services (including all kinds of technical support) performed by Supplier to a third party worldwide, Customer shall comply with all applicable national and international (re-) export control regulations. In any event Customer shall comply with the (re-) export control regulations of the Federal Republic of Germany, of the European Union and of the United States of America.

2. If required to conduct export control checks, Customer, upon request by Supplier, shall promptly provide Supplier with all information pertaining to particular end customer, destination and intended use of Supplies and services provided by Supplier, as well as any export control restrictions existing.