



PREAMBLE

1. All deliveries and services of H2O GmbH and of affiliated companies of H2O GmbH (in the following collectively referred to as "Supplier") are based exclusively on these General Conditions and any separate contractual agreements In Writing.
The Supplier does not accept any conflicting or deviating terms and conditions of the Purchaser, unless the Supplier has expressly agreed to their validity.

DEFINITIONS

2. In these General Conditions the following terms shall have the meanings hereunder assigned to them:
 - « **Contract** »: the agreement In Writing between the parties concerning supply of the Product and all appendices, including agreed amendments and additions In Writing to the said documents;
 - « **Gross Negligence** »: a deliberate or reckless failure to take such care as is obviously required in the circumstances to avoid serious consequences for the other party;
 - « **In Writing** »: communication by document signed by both parties or by letter, electronic mail, fax and by such other means as are agreed by the parties;
 - « **the Product** »: the object(s) to be supplied under the Contract, including software and documentation;
 - « **Contract Price** »: the agreed price, which shall be either a fixed price or, in case the parties have specifically agreed on a price revision clause, the revised price.

PRODUCT INFORMATION/INSTRUCTIONS

3. All information and data contained in general product documentation and price lists, regardless of form, shall be binding only to the extent that they are by reference In Writing expressly included in the Contract.
4. The Supplier shall, not later than at the date of delivery, provide free of charge information and drawings which are necessary to permit the Purchaser to install, commission, operate and maintain the Product. Such information and drawings shall be supplied as one paper copy of each and also electronically. The Supplier shall not be obliged to provide manufacturing drawings for the Product or for spare parts.

INTELLECTUAL PROPERTY AND CONFIDENTIALITY

5. All intellectual property rights in the Product, including in any embedded software, and in any technical information relating to the Product, shall rest with the Supplier or, in the appropriate case, with a third party which has licensed the Supplier to sublicense these rights. Subject to any limitations that may have been agreed between the third party and the Supplier, the Purchaser shall acquire a non-exclusive, perpetual and transferable right to use these intellectual property rights, but limited to the extent required by the purpose of the Contract. The Supplier shall not be obliged to provide the Purchaser with the source code or with updates for any embedded software.

This clause shall also apply when the Product and/or software has been specifically developed for the Purchaser, unless otherwise agreed In Writing.

6. Technical, commercial and financial information and information, which has been declared as confidential or which must by its very nature be deemed to be confidential, disclosed In Writing or orally by one party to the other, shall be treated confidentially. The information shall therefore not without the consent of the disclosing party In Writing be used for any other purpose than that for which it was provided It may not, without the consent of the disclosing party In Writing, be transmitted, communicated or otherwise disclosed to a third party.

ACCEPTANCE TESTS

7. Acceptance tests provided for in the Contract shall, unless otherwise agreed, be carried out at the place of manufacture during normal working hours.

If the Contract does not specify the technical requirements, the tests shall be carried out in accordance with general practice in the appropriate branch of industry concerned in the country of manufacture.

8. The Supplier shall notify the Purchaser In Writing of the acceptance tests in sufficient time to permit the Purchaser to be represented at the tests. If the Purchaser is not represented through his own fault, the test report shall be sent to the Purchaser and shall be accepted as accurate.
9. If the acceptance tests show the Product not to be in accordance with the Contract, the Supplier shall without delay remedy any deficiencies in order to ensure that the Product complies with the Contract. New tests shall then be carried out at the Purchaser's request, unless the deficiency was insignificant.
10. The Supplier shall bear all costs for acceptance tests carried out at the place of manufacture. The Purchaser shall however bear all travelling and living expenses for his representatives in connection with such tests.

DELIVERY. PASSING OF RISK

11. Any agreed trade term shall be construed in accordance with the INCOTERMS® in force at the formation of the Contract.

If no trade term has been specifically agreed, the delivery shall be Ex Works (EXW) at the place of manufacture of the Product.

If, in the case of an agreed delivery EXW or FCA (Free Carrier), the Supplier, at the request of the Purchaser, undertakes to send the Product to its destination, the risk will nevertheless pass to the Purchaser as soon as the Product is handed over to the first carrier.

Partial delivery shall explicitly be permitted, unless otherwise agreed In Writing.

TIME FOR DELIVERY. DELAY

12. If the parties, instead of specifying the date for delivery, have specified a period of time within which delivery shall take place, such period shall start to run as soon as the Contract is entered into and all agreed preconditions to be met by the Purchaser have been fulfilled, such as official formalities, payments due at the formation of the Contract and securities.

13. If the Supplier anticipates that he will not be able to deliver the Product at the time for delivery, he shall forthwith notify the Purchaser thereof In Writing, stating the reason and, if possible, the time when delivery can be expected.

If the Supplier fails to give such notice, the Purchaser shall be entitled to compensation for any additional costs which he incurs and which he could have avoided had he received such notice.

14. If delay in delivery is caused by any of the circumstances mentioned in Clause 45, by an act or omission on the part of the Purchaser, including suspension under Clauses 22 and 48, or any other circumstances attributable to the Purchaser, the Supplier shall be entitled to extend the time for delivery by a period which is necessary having regard to all the circumstances of the case. This provision shall apply regardless of whether the reason for the delay occurs before or after the agreed time for delivery.

15. If the Product is not delivered at the time for delivery, the Purchaser shall be entitled to liquidated damages from the date on which delivery should have taken place.

The liquidated damages shall be payable at a rate of 0.5 per cent of the Contract Price for each commenced week of delay. The liquidated damages shall not exceed 5 per cent of the Contract Price.

If only part of the Product is delayed, the liquidated damages shall be calculated on that part of the Contract Price which is attributable to such part of the Product as cannot in consequence of the delay be used as intended by the parties.

The liquidated damages shall become due at the Purchaser's demand In Writing but not before delivery has been completed or the Contract is terminated under Clause

16. If the delay in delivery is such that the Purchaser is entitled to maximum liquidated damages under Clause 15 and if the Product is still not delivered, the Purchaser may In Writing demand delivery within a final reasonable period which shall not be less than one week.

If the Supplier does not deliver within such final period and this is not due to any circumstances which are attributable to the Purchaser, then the Purchaser may by notice In Writing to the Supplier terminate the Contract in respect of such part of the Product as cannot in consequence of the Supplier's failure to deliver be used as intended by the parties.

If the Purchaser terminates the Contract he shall be entitled to compensation for the loss he suffers as a result of the Supplier's delay, including any consequential and indirect loss. The total compensation, including the liquidated damages which are payable under Clause 15, shall not exceed 15 per cent of that part of the Contract Price which is attributable to the part of the Product in respect of which the Contract is terminated.

The Purchaser shall also have the right to terminate the Contract by notice In Writing to the Supplier, if it is clear from the circumstances that there will occur a delay in delivery which, under Clause 15, would entitle the Purchaser to maximum liquidated damages. In case of termination for this reason, the Purchaser shall be entitled to maximum liquidated damages and compensation under the third paragraph of this clause.

17. Liquidated damages under Clause 15 and termination of the Contract with limited compensation under Clause 16 shall be the only remedies available to the Purchaser in case of delay on the part of the Supplier. All other claims against the Supplier based on such delay shall be excluded, except where the Supplier has been guilty of a negligent breach of a fundamental condition of the contract ("wesentliche Vertragspflicht"), intent or Gross Negligence.

18. If the Purchaser anticipates that he will be unable to accept delivery of the Product at the time for delivery, he shall forthwith notify the Supplier In Writing thereof, stating the reason and, if possible, the time when he will be able to accept delivery.

If the Purchaser fails to accept delivery at the time for delivery for a reason which is not attributable to the Supplier, he shall nevertheless pay any part of the Contract Price which becomes due at the time for delivery, as if delivery had taken place at the time for delivery. The Supplier shall arrange for storage of the Product at the risk and expense of the Purchaser. The Supplier shall also, if the Purchaser so requires, insure the Product at the Purchaser's expense.

19. Unless the Purchaser's failure to accept delivery is due to any of the circumstances mentioned in Clause 45, the Supplier may by notice In Writing require the Purchaser to accept delivery within a final reasonable period.

If, for a reason which is not attributable to the Supplier and not the result of any of the circumstances mentioned in Clause 45, the Purchaser fails to accept delivery within such period, the Supplier may by notice In Writing terminate the Contract in whole or in part. The Supplier shall then be entitled to compensation for the loss he suffers by reason of the Purchaser's default, including any consequential and indirect loss. The compensation shall not exceed that part of the Contract Price which is attributable to that part of the Product in respect of which the Contract is terminated.

PAYMENT

20. Payment shall be made within thirty days after the date of invoice.

Unless otherwise agreed, the Contract Price shall be invoiced with one half at the formation of the Contract and the remaining part when the Product is delivered.

21. Whatever the means of payment used, payment shall not be deemed to have been effected before the Supplier's account has been irrevocably credited for the amount due.
22. If the Purchaser fails to pay by the stipulated date, the Supplier shall be entitled to interest from the day on which payment was due and to compensation for recovery costs. The rate of interest shall be as agreed between the parties or otherwise 8 percentage points above the interest rate of the European Central Bank for the main refinancing operations (MRO). The compensation for recovery costs shall be 1 per cent of the amount for which interest for late payment becomes due.

In case of late payment or in case the Purchaser fails to give an agreed security by the stipulated date the Supplier may, after having notified the Purchaser In Writing, suspend his performance of the Contract until he receives payment or, where appropriate, until the Purchaser gives the agreed security.

If the Purchaser has not paid the amount due within three months the Supplier shall be entitled to terminate the Contract by notice In Writing to the Purchaser and, in addition to the interest and compensation for recovery costs according to this clause, to claim compensation for the costs and loss he incurs, including indirect and consequential loss.

RETENTION OF TITLE

23. The Product shall remain the property of the Supplier until paid for in full to the extent that such retention of title is valid under the relevant law.

The Purchaser shall at the request of the Supplier assist him in taking any measures necessary to protect the Supplier's title to the Product.

The retention of title shall not affect the passing of risk under Clause 11.

LIABILITY FOR DEFECTS

24. The Product shall be in conformity with the Contract. Pursuant to the provisions of this clause and Clauses 25-44, the Supplier shall remedy any defect in or nonconformity of the Product (hereinafter termed defect) resulting from faulty design, materials, or workmanship.

25. The Supplier shall not be liable for defects arising out of a design, materials or production methods provided, stipulated, or specified by the Purchaser.

26. The Supplier shall only be liable for defects which appear under the conditions of operation provided for in the Contract and under proper use of the Product.

27. The Supplier shall not be liable for defects caused by circumstances which arise after the risk has passed to the Purchaser, e.g. defects due to faulty or incorrect installation, maintenance or repair, or to any alteration, carried out by the Purchaser or by a third party on behalf of the Purchaser. The Supplier shall neither be liable for normal wear and tear nor for deterioration.

28. The Supplier's liability shall be limited to defects which appear within a period of one year from delivery. If the use of the Product exceeds that which is agreed, this period shall be reduced proportionately.

Claims for reimbursement of expenses of the Purchaser pursuant to Sec. 445a BGB (recourse of the seller) also become statute barred one year after the beginning of the statutory limitation period, provided that the last contract in the supply chain is not for sale of consumer goods. Suspension of the statute of limitations under Sec. 445b (2) BGB remains unaffected; it shall end, at the latest, five years after the point in time when the Supplier delivered the item to the Purchaser.

29. When a defect in a part of the Product has been remedied/ the Supplier shall be liable for defects in the repaired part or in the part in replacement under the same terms and conditions as those applicable to the original Product for a period of one year. For the remaining parts of the Product/ the period mentioned in Clause 28 shall be extended only by a period equal to the period during which and to the extent that the Product could not be Used as a result of the defect.

The Supplier shall not be liable for defects in any part of the Product for more than one year from the end of the liability period referred to in Clause 28 or from the end of any other liability period agreed upon by the parties.

30. The Purchaser shall without undue delay notify the Supplier In Writing of any defect which appears, The notice shall contain a description of the defect. Such notice shall under no circumstances be given later than two weeks after the expiry of the period given in Clause 28 or the extended period(s) under Clause 29, where applicable.

If the Purchaser fails to notify the Supplier In Writing of a defect within the time limits set forth in the first paragraph of this clause, he shall lose his right to have the defect remedied and any other rights in respect of the defect.

Where the defect is such that it may cause damage, the Purchaser shall immediately notify the Supplier In Writing. The Purchaser shall bear the risk of damage to the Product resulting from his failure so to notify. The Purchaser shall take reasonable measures to minimise damage and shall in that respect comply with instructions of the Supplier.

31. On receipt of the notice under Clause 30, the Supplier shall at his own cost remedy the defect without undue delay, as stipulated in Clauses 24-44. The time for remedial work shall be chosen in order not to interfere unnecessarily with the Purchaser's activities.

Remedial work shall be carried out at the place where the Product is located unless the Supplier deems it more appropriate that the Product is sent to him or a destination specified by him.

If the defect can be remedied by replacement or repair of a defective part and if dismantling and re-installation of the part do not require special knowledge, the Supplier may demand that the defective part is sent to him or a destination specified by him.

32. The Purchaser shall at his own expense provide access to the Product and arrange for any intervention in equipment other than the Product, to the extent that this is necessary to remedy the defect.
33. Unless otherwise agreed/ necessary transport of the Product or parts thereof to and from the Supplier in connection with the remedying of defects for which the Supplier is liable shall be at the risk and expense of the Supplier. The Purchaser shall follow the Supplier's instructions regarding such transport.
34. Unless otherwise agreed, the Purchaser shall bear any additional costs which the Supplier incurs for remedying the defect caused by the Product being located in a place other than the place specified in the Contract for putting the Product into service, or if not specified, the place of delivery.
35. Defective parts which have been replaced shall be made available to the Supplier and shall be his property.
36. If the Purchaser has given such notice as mentioned in Clause 30 and no defect is found for which the Supplier is liable, the Supplier shall be entitled to compensation for the costs he incurs as a result of the notice.
37. If the Supplier does not fulfil his obligations under Clause 31 or 43, the Purchaser may by notice In Writing fix a final reasonable period for completion of the Supplier's obligations, which shall not be less than one week.

If the Supplier fails to fulfil his obligations within such final period, the Purchaser may himself undertake or employ a third party to undertake necessary remedial work at the risk and expense of the Supplier, provided the Purchaser or third party does so in a professional manner.

Where successful remedial work has been undertaken by the Purchaser or a third party, reimbursement by the Supplier of reasonable costs incurred by the Purchaser shall be in full settlement of the Supplier's liabilities for the said defect.

38. Where the defect has not been successfully remedied, as stipulated under Clause 37,
- a) the Purchaser shall be entitled to a reduction of the Contract Price in proportion to the reduced value of the Product, provided that under no circumstances shall such reduction exceed 15 per cent of the Contract Price, or
 - b) where the defect is so substantial as to significantly deprive the Purchaser of the benefit of the Contract as regards the Product or a substantial part of it, the Purchaser may terminate the Contract by notice In Writing to the Supplier in respect of such part of the Product as cannot in consequence of the defect be used as intended by the parties. The Purchaser shall then be entitled to compensation for any loss, including any consequential and indirect loss, up to a maximum of 15 per cent of that part of the Contract Price which is attributable to the part of the Product in respect of which the Contract is terminated.

The limitation of the Supplier's liability shall not apply if he has been guilty of intent, Gross Negligence or if the Supplier negligently causes damage to life, body or health.

Furthermore, the limitation of liability shall not apply in cases of negligent breach of a fundamental condition of contract ("wesentliche Vertragspflicht"). In the case of a slightly negligent breach, the Supplier shall be liable only for reasonably foreseeable damage which is intrinsic to the contract.

The said limitation of liability shall also be inapplicable in cases of strict liability under the Product Liability Act ("Produkthaftungsgesetz"), for defects of the Product causing death or personal injury, or damage to items of property used privately. Furthermore, the said limitation of liability shall not apply in cases of defects the Supplier has fraudulently concealed or whose absence he has guaranteed.

39. Save as stipulated in Clauses 24-38, the Supplier shall not be liable for defects. This applies to any loss the defect may cause including loss of production, loss of profit and other indirect loss. The limitation of the Supplier's liability shall not apply if he has been guilty of intent, Gross Negligence or if the Supplier negligently causes damage to life, body or health.

Furthermore, the limitation of liability shall not apply in cases of negligent breach of a fundamental condition of contract ("wesentliche Vertragspflicht"). In the case of a slightly negligent breach, the Supplier shall be liable only for reasonably foreseeable damage which is intrinsic to the contract.

The said limitation of liability shall also be inapplicable in cases of strict liability under the Product Liability Act ("Produkthaftungsgesetz"), for defects of the Product causing death or personal injury, or damage to items of property used privately. Furthermore, the said limitation of liability shall not apply in cases of defects the Supplier has fraudulently concealed or whose absence he has guaranteed.

LIABILITY FOR INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS

40. Unless otherwise agreed, the Supplier shall, in accordance with this clause and Clauses 41 - 44 be liable towards the Purchaser for the Product infringing patents, copyrights or any other intellectual property rights of a third party in the Purchaser's country. The Supplier shall in such case indemnify the Purchaser and hold the Purchaser harmless against claims of third parties, provided that such claims are confirmed as valid by a final award or a settlement approved by the Supplier.

The Supplier shall however not be liable for the Purchaser's loss of production, loss of profit, loss of use and loss of contract.

The exclusion of the Supplier's liability shall not apply if he has been guilty of intent, Gross Negligence or if the Supplier negligently causes damage to life, body or health. Furthermore, it shall not apply in cases of negligent breach of a fundamental condition of contract ("wesentliche Vertragspflicht"). In the case of a slightly negligent breach of a fundamental condition of contract, the Supplier shall, however, be liable only for reasonably foreseeable damage which is intrinsic to the contract.

The exclusion of liability shall also be inapplicable in cases of strict liability under the Product Liability Act ("Produkthaftungsgesetz") for defects of the Product causing death or personal injury, or damage to items of property used privately. Furthermore, it shall not apply in cases of damage attributable to fraudulent concealment or under a specific guarantee granted.

41. The Supplier shall have no liability for infringement of intellectual property rights arising out of:

- the Product being Used elsewhere than in the Purchaser's country;
- the Product being used otherwise than agreed or in a way the Supplier could not have foreseen;
- the Product being used together with equipment or software not supplied by the Supplier, or
- a design or construction stipulated or specified by the Purchaser.

42. The Supplier shall only be liable if the Purchaser notifies the Supplier In Writing without delay of any claim as referred to in Clause 40 which he receives and allows the Supplier to decide how the claim shall be dealt with.

Defence against claims referred to in Clause 40 shall be for the Supplier's account. The Supplier shall compensate the Purchaser for any amounts the latter is obliged to pay under a final award or a settlement approved by the Supplier.

43. Infringement of intellectual property rights shall, at the Supplier's discretion, be remedied by:

- providing the right for the Purchaser to use the Product/
- adjusting the Product so that the infringement ceases, or
- by replacing the Product with another product, which can be used without infringing applicable intellectual property rights.

44. If the Supplier fails to remedy the infringement in accordance with Clause 43 without undue delay, Clauses 37, 38 and 39 shall apply.

FORCE MAJEURE

45. Either party shall be entitled to suspend performance of his obligations under the Contract to the extent that such performance is impeded or made unreasonably onerous by force majeure, meaning any of the following circumstances: industrial disputes and any circumstance beyond the control of the parties such as fire, war, extensive military mobilization, insurrection, requisition, seizure, embargo, restrictions in the use of power, currency and import or export restrictions, epidemics, natural disasters, extreme natural events, terrorist acts and defects or delays in deliveries by sub-contractors caused by any such circumstance referred to in this clause.

A circumstance referred to in this clause whether occurring prior to or after the formation of the Contract shall give a right to suspension only if its effect on the performance of the Contract could not be foreseen at the time of the formation of the Contract.

46. The party claiming to be affected by force majeure shall notify the other party In Writing without delay on the intervention and on the cessation of such circumstance. If a party fails to give such notice, the other party shall be entitled to compensation for any additional costs which he incurs and which he could have avoided had he received such notice.

If force majeure prevents the Purchaser from fulfilling his obligations, he shall compensate the Supplier for costs which the Supplier incurs in storing, securing and protecting the Product and avoiding unreasonable interference with his other activities.

47. Regardless of what might otherwise follow from these General Conditions, either party shall be entitled to terminate the Contract by notice In Writing to the other party if performance of the Contract is suspended under Clause 45 for more than six months.

ANTICIPATED NON-PERFORMANCE

48. Each party shall be entitled to suspend the performance of his obligations under the Contract, where it is clear from the circumstances that the other party is not going to perform his obligations. A party suspending his performance of the Contract shall forthwith notify the other party thereof In Writing.

CONSEQUENTIAL LOSSES

49. Save as otherwise stated in these General Conditions or in case of Gross Negligence there shall be no liability for either party towards the other party for loss of production, loss of profit, loss of use, loss of contracts and for any other consequential or indirect loss whatsoever, whether the loss was foreseeable or not.

The exclusion of the Supplier's liability shall not apply if he has been guilty of intent, Gross Negligence or if the Supplier negligently causes damage to life, body or health. Furthermore, it shall not apply in cases of negligent breach of a fundamental condition of contract ("wesentliche Vertragspflicht"). In the case of a slightly negligent breach of a fundamental condition of contract, the Supplier shall, however, be liable only for reasonably foreseeable damage which is intrinsic to the contract.

The exclusion of liability shall also be inapplicable in cases of strict liability under the Product Liability Act ("Produkthaftungsgesetz") for defects of the Product causing death or personal injury, or damage to items of property used privately. Furthermore, it shall not apply in cases of damage attributable to fraudulent concealment or under a specific guarantee granted.

DISPUTES AND APPLICABLE LAW

50. Any dispute, controversy, or claim arising out of, or in relation to, this contract, including regarding the validity, invalidity, breach, or termination thereof, shall be resolved by arbitration in accordance with the Swiss Rules of International Arbitration of the Swiss Arbitration Centre in force on the date on which the Notice of Arbitration is submitted in accordance with those Rules.

The number of arbitrators shall be one or three;

The seat of the arbitration shall be Zurich;

The arbitration proceedings shall be conducted in English language

51. The Contract shall be governed by the substantive law of the FEDERAL REPUBLIC OF GERMANY

***SUPPLEMENTARY CONDITIONS FOR THE PERFORMANCE AND SUPERVISION OF
INSTALLATION AND COMMISSIONING*****THE SUPPLIER'S OBLIGATIONS**

52. The Supplier shall at the agreed time provide the services of one or more competent staff, who shall:

a) carry out the installation or commissioning

or

b) give to the Purchaser or his site representative mentioned in Clause 61.1 of these Supplementary Conditions the necessary instructions for the installation of the Product by the Purchaser and, where appropriate, for its commissioning by the Purchaser, and supervise the manner in which the Supplier's instructions are carried out.

The number and qualifications of the Supplier's personnel and the estimated duration of installation shall be agreed separately.

The Supplier shall in good time before installation and, where appropriate, commissioning work is started, inform the Purchaser of any special risks which the execution of the installation and commissioning work may entail.

53. The Supplier shall in good time provide drawings showing the manner in which the Product is to be installed, together with all information required for preparing suitable foundations, for providing access for the Product and any necessary equipment to the installation site and for making all necessary connections to the Product.

LOCAL LAWS, REGULATIONS AND RULES

54. The Purchaser shall in due time provide the Supplier with such information concerning local laws, regulations and rules as is necessary for the proper execution of the Supplier's obligations.

The Supplier shall ensure that his personnel complies with these laws, regulations and rules.

THE PURCHASER'S OBLIGATIONS

55. The Purchaser shall in good time undertake preparatory work to ensure that the conditions necessary for installation of the Product and for the correct operation of the Product are fulfilled. This shall not apply to preparatory work which according to the Contract shall be performed by the Supplier.
56. The preparatory work referred to in Clause 55 shall be carried out by the Purchaser in accordance with the drawings and information provided by the Supplier under Clause 53. If the Purchaser is responsible for transporting the Product to the installation site, he shall ensure that the Product is on such site before the agreed date for starting the installation, commissioning and/or supervision work.
57. The Purchaser shall ensure that the following conditions are satisfied:
- a) He shall be ready to commence installation and/or commissioning work and shall ensure that the work, including supervision work, can be performed in an efficient manner.
 - b) The Supplier's personnel are able to start work in accordance with the agreed time schedule and to work during normal working hours, unless otherwise agreed In Writing.
 - c) He has, in good time before installation is started, informed the Supplier In Writing of all relevant safety regulations in force at the installation site and to be observed by the Supplier's personnel.
 - d) The installation, commissioning and/or supervision shall not be carried out in unhealthy or dangerous surroundings. All the necessary safety and precautionary measures shall have been taken before the work is started and shall be maintained during the time of the work.
 - e) The Supplier's personnel shall be able to obtain appropriate board and lodging near the installation site and shall have access to internationally acceptable hygiene facilities and medical services.
 - f) He shall make available to the Supplier free of charge necessary storage facilities, providing protection against theft and deterioration of the personal effects of the Supplier's personnel.
 - g) He shall make available to the Supplier free of charge sufficient offices on the installation site, equipped with access to the Internet.
 - h) He shall free of charge give all necessary assistance to ensure that the Supplier's personnel obtain in good time visas and any official entry, exit or work permits and (if necessary) tax certificates required in the Purchaser's country, as well as access to the installation site.

INSATLLATION, COMMISSIONING AND/OR SUPERVISION PAID FOR ON A TIME BASIS

58. Where the parties have agreed that the work shall be paid for on a time basis, the following shall apply:

- 58.1 The rates to be paid by the Purchaser are those specified in the Contract. These rates shall be paid from the date of departure from the Supplier's premises until the date of return, including non-working time.
- 58.2 Payment shall be made against monthly invoices concerning the work carried out. Payment shall be made within 30 days from the date of the invoice.
- 58.3 The following items shall be separately charged:
- a) all reasonable travelling expenses incurred by the Supplier in respect of his personnel and the transport of their equipment and personal effects in accordance with the specified method and class of travel specified in the Contract;
 - b) cost of board and lodging and other living expenses, including any appropriate allowances, of the Supplier's personnel for each day's absence from their homes, including non-working days and holidays. The daily allowances shall be payable even during incapacity caused by sickness or accident;
 - c) overtime and work on locally recognised days of rest and local public holidays and outside normal working hours, which shall be charged at special rates. The rates shall be as agreed in the Contract, or, failing agreement, as normally charged by the Supplier;
 - d) time necessarily spent on:
 - preparation and formalities incidental to the outward and homeward journeys of the Supplier's personnel;
 - the outward and homeward journeys and other journeys to which the personnel are entitled in accordance with current law, regulations or collective agreements in the Supplier's country;
 - daily travel between lodgings and the installation site if it exceeds half an hour each way;
 - e) any costs incurred by the Supplier in accordance with the Contract, in connection with the provision of equipment by him;
 - f) any taxes or dues levied on the invoice and payable by the Supplier or his personnel in the country where supervision takes place;
 - g) any costs not covered by a) - f), which could not reasonably be foreseen by the Supplier at the time of formation of the Contract and are caused by a circumstance which is not attributable to the Supplier.

INSATLLATION, COMMISSIONING AND/OR SUPERVISION PAID FOR BY A LUMP SUM

59. Where the parties have agreed that the work shall be paid for on the basis of a lump sum and the lump sum is not included in the price for the Product, the payment shall be made against invoices of 10% at the signature of the Contract, 30% at the time of commencement of supervision and the remaining part of the lump sum when the supervision has been finished.
60. The agreed lump sum price shall be deemed to include all the items mentioned in Clause 58.3.
- a) to e). If the work is delayed or suspended due to a cause which is attributable to the Purchaser or any contractor other than the Supplier, the Purchaser shall compensate the Supplier for any resulting additional costs, including but not limited to:
 - a) costs and extra work resulting from the delay;

- b) waiting time and time spent on extra journeys to and from the installation site;
- c) additional costs, including costs as a result of the Supplier having to keep his equipment at the installation site for a longer time than expected;
- d) additional costs for journeys and board and lodging for the Supplier's personnel;
- e) additional financing costs and costs of insurances;
- f) other documented costs incurred by the Supplier as a result of changes in the work programme;
- g) any costs not covered by a) – f), which could not reasonably be foreseen by the Supplier at the time of formation of the Contract and are caused by a circumstance which is not attributable to the Supplier.

If these costs are time-related, they shall be charged at the rates as agreed in the Contract or, failing agreement, as normally charged by the Supplier.

SITE REPRESENTATIVES AND WORK REPORT

- 61.1. Each of the parties shall by notice In Writing appoint a representative to act on his behalf during the work. Such notice of appointment shall be made in due time before installation, commissioning and/or supervision work is started. Unless otherwise specified in the Contract, they shall be authorised to act on behalf of their respective party in all matters concerning the work. Wherever these General Conditions stipulate that notice In Writing shall be given, the representative shall be authorised to receive such notice on behalf of the party he represents.
- 61.2. The Supplier shall keep a work report in which he shall note all installation, commissioning and/or supervision work carried out and problems encountered, including any breach of safety regulations. This work report shall be updated and signed on regular basis by the representatives of the parties.

WORK NOT COVERED BY THE CONTRACT

62. The Purchaser shall not be entitled to use the Supplier's personnel to perform any work not covered by the Contract without the previous consent In Writing of the Supplier.

SUSPENSION OF THE WORK

63. The Supplier shall be entitled without prior notice to suspend the work and withdraw his personnel, if an invoice is not paid at the due date.
64. If the work is suspended for a cause for which the Supplier is not responsible:
- a) the Purchaser shall be entitled to send home the Supplier's personnel, provided he pays the expenses resulting therefrom;
 - b) the Supplier shall be entitled to recall his personnel at the expense of the Purchaser if the suspension of the work exceeds a period of two weeks.

If the Supplier's personnel is sent home or recalled under this clause, the Contract is not terminated and its performance is merely suspended until the Purchaser has required the return of the Supplier's personnel to the installation site by giving at least one month's notice In Writing or such period as may be agreed.

If the suspension of the work lasts longer than three months, the Supplier shall be entitled to terminate the installation, commissioning and/or supervision Contract. The Supplier shall in such case be entitled to compensation. In case of supervision paid for on a time basis, he shall

be entitled to payment of time worked and costs incurred and to payment of the amount of 25 per cent, or such other percentage the parties may have agreed upon, of the time to be spent if installation, commissioning and/or supervision would have been completed as scheduled. In case of work on a lump sum basis, he shall be entitled to payment of the part of the lump sum which has not been paid yet, minus costs saved due to the termination.

SUPPLIER'S LIABILITY

65. The Supplier shall be liable for any damage to the Product and to the property of the Purchaser caused by the Supplier's negligence during the installation, commissioning and/or supervision and for any defects in the installation work resulting from the Supplier's failure to adequately perform his obligations under Clause 52. The maximum liability of the Supplier shall however be limited to the invoiced price or the price to be invoiced for the work.

The limitation of liability shall not apply in the case of intent, gross negligence or where an injury or the death of a person is caused through negligence. Furthermore, it shall not apply in cases of negligent breach of a fundamental condition of contract ("wesentliche Vertragspflichten"). In the case of a slightly negligent breach of a fundamental condition of contract, liability shall be limited to reasonably foreseeable damage which is intrinsic to the contract. Nor shall the said limitation of liability apply in the cases of strict liability under the Product Liability Act ("Produkthaftungsgesetz"), for defects causing death or personal injury, or damage to items of property used privately. Furthermore, the said limitation of liability shall not apply in the case of defects the Supplier has fraudulently concealed or whose absence he has guaranteed.

The Supplier shall in case of any extra installation work resulting from the Supplier's negligence or failure be obliged to perform any related work at no charge.

66. Save as otherwise stated in these General Conditions, there shall be no liability of the Supplier towards the Purchaser for loss of production, loss of profit, loss of use, loss of contracts or for any other consequential or indirect loss whatsoever.

This exclusion of liability shall not apply in the case of intent, gross negligence or where an injury or the death of a person is caused through negligence. Furthermore, it shall not apply in cases of negligent breach of a fundamental condition of contract ("wesentliche Vertragspflichten"). In the case of a slightly negligent breach of a condition which goes to the root of the contract, the Supplier shall be liable only for reasonably foreseeable damage which is intrinsic to the contract. Nor shall the exclusion of liability apply in cases of strict liability under the Product Liability Act ("Produkthaftungsgesetz"), for defects causing death or personal injury, or damage to items of property used privately. Furthermore, the said exclusion shall not apply in the case of damage attributable to fraudulent concealment or under a specific guarantee granted.

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