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## ***General Terms and Conditions***

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## 1. General

- 1.1. These general terms and conditions apply to the delivery of goods and mutatis mutandis to the provision of services by Indel AG, Tüfiwis 26, 8332 Russikon, Switzerland (hereinafter: SUPPLIER), unless the CUSTOMER and the SUPPLIER agree otherwise in writing.
- 1.2. The contract is concluded on receipt of the SUPPLIER's written confirmation of acceptance of the order (order confirmation). Offers that do not include a term of acceptance are not binding.
- 1.3. These terms and conditions are binding if they are declared to be applicable in the offer or order confirmation. Conditions of the CUSTOMER that differ from these are only valid if they have been accepted expressly and in writing by the SUPPLIER.
- 1.4. All agreements and legally relevant declarations of the contracting parties must be made in writing in order to be valid. Declarations in text form transmitted or recorded by electronic media are treated as equivalent to declarations in writing if specifically so agreed by the parties.
- 1.5. If a provision in these terms of delivery proves to be fully or partially invalid, the contracting parties shall replace this provision with a new agreement that comes as close as possible to producing the same legal and commercial effect.

## 2. Extent of deliveries and services

- 2.1. The SUPPLIER's deliveries and services are listed in full in the order confirmation, including any supplements. The SUPPLIER is authorised to make changes that lead to improvements as long as they do not entail increases in price.

## 3. Plans and technical documentation

- 3.1. Prospectuses and catalogues are not binding unless otherwise agreed. Specifications in technical documents are only binding if they are expressly guaranteed. The SUPPLIER expressly reserves the right to make changes.
- 3.2. Each contracting party reserves the rights to all plans and technical documents that it has handed over to the other. The receiving party recognises these rights, and will not make the documents available in whole or in part to third parties, or use them for purposes other than the purpose for which they are provided, without the prior written authorisation of the other party.

## 4. Regulations in the destination country and safety measures

- 4.1. The CUSTOMER must make the SUPPLIER aware of the regulations and standards relating to the performance of the deliveries and services, to operation and to the prevention of illness and accidents, no later than the time of delivery.
- 4.2. Unless otherwise agreed, the deliveries and services shall meet the regulations and standards in force at the CUSTOMER's offices, to which regulations and standards the CUSTOMER has referred the SUPPLIER in accordance with point 4.1. Additional or other safety measures are included to the extent expressly agreed.

## 5. Prices

- 5.1. All prices given are – unless otherwise agreed – net, ex-works, without packaging, in cleared Swiss francs, without deductions of any kind. All additional costs, such as freight costs, insurance costs, export, transit, import and other permits, and certifications, are payable by the CUSTOMER. The CUSTOMER must also bear all forms of taxes, levies, fees, duties or similar that are charged in connection with the contract, or to refund them to the SUPPLIER against appropriate documentation if the latter becomes liable for them.
- 5.2. The SUPPLIER reserves the right to adjust the price if labour or material costs change between the time of making the offer and the fulfilment of the contract. An appropriate price adjustment shall also be carried out if:
- a) the delivery deadline is extended for one of the reasons specified in point 8.3, or
  - b) the nature or scope of the agreed deliveries or services has undergone a change, or
  - c) the material or execution undergo changes because the documentation provided by the CUSTOMER does not correspond to the actual circumstances or is incomplete.

## 6. Terms of payment

- 6.1. The payments must be made by the CUSTOMER at the SUPPLIER's domicile in accordance with the agreed terms of payment without deduction of discounts, expenses, taxes, levies, fees, duties or similar. Unless otherwise agreed, the price must be paid in the following instalments:
- a) an initial payment of one third within a month of the customer's receipt of the order confirmation,
  - b) one third at the end of two thirds of the agreed delivery term,
  - c) the remaining amount within a month of notification of readiness for dispatch by the SUPPLIER.

The obligation to pay is fulfilled as long as Swiss francs have been made freely available to the SUPPLIER at the SUPPLIER's domicile. If payment by bill of exchange has been agreed upon, the CUSTOMER shall bear the bank discount, note tax and collection charges.

- 6.2. The payment deadlines must also be adhered to if transportation, delivery, assembly, commissioning or acceptance of the deliveries or services are delayed or made impossible for reasons outside the SUPPLIER's responsibility, or if minor parts are missing or additional work proves to be necessary as long as these do not make the deliveries impossible to use.
- 6.3. If the initial payment or the securities to be provided on signing the contract are not provided as specified in the contract, the SUPPLIER has the right to adhere to or withdraw from the contract, and, in either case, to claim damages.

If for any reason the CUSTOMER is in arrears with a further payment, or if circumstances that have taken place since the contract was signed give the SUPPLIER reasonable cause to doubt that the CUSTOMER's payment will be received in full or on time, the SUPPLIER is entitled, without affecting its statutory rights, to suspend the further execution of the contract and to withhold deliveries that are ready for dispatch until such time as new payment and delivery terms have been agreed and the SUPPLIER has received sufficient securities. If such an agreement cannot be reached within a reasonable period of time, or if the SUPPLIER does not receive sufficient securities, the SUPPLIER has the right to withdraw from the contract and to claim damages.

- 6.4. If the CUSTOMER does not meet the agreed payment deadlines then the CUSTOMER must, without request and with effect from the agreed due date, pay interest conforming to the usual interest rates at the CUSTOMER's domicile, and in any case at least 4% above the 3-month CHF LIBOR in effect at the time. The right to further damages is reserved.

## 7. Title retention

- 7.1. The SUPPLIER remains the owner of all its deliveries until it has received payment in full in accordance with the contract.
- 7.2. The CUSTOMER is obliged to participate in those measures that are necessary for the protection of the SUPPLIER's property; in particular, by signing the contract, the CUSTOMER authorises the SUPPLIER to record or reserve property rights, at the CUSTOMER's expense, in public registers, books or similar in accordance with applicable national laws, and to perform all formalities that are necessary in this respect.
- 7.3. The CUSTOMER shall, at its own expense, maintain the delivered goods throughout the duration of reservation of property rights, and insure them in the SUPPLIER's favour against theft, breakage, fire, flood and other risks. Furthermore, the CUSTOMER shall take all measures necessary to ensure that the SUPPLIER's claim of ownership is neither harmed nor repealed.
- 7.4. While the title retention is in effect, the CUSTOMER is forbidden from pledging or transferring ownership, and is authorised to resell only to retailers in the ordinary course of business, and only provided that the retailer receives payment from its customers or specifies the reservation that the property only passes to the customer if the latter's payment obligations have been fulfilled.
- 7.5. In the event of attachment, seizure or other disposals or interventions by third parties, the CUSTOMER must inform the SUPPLIER immediately.

## 8. Software License

- 8.1. The SUPPLIER retains ownership over any supplied software. The CUSTOMER has the non-exclusive, transferable and sublicensable right to use the supplied software on SUPPLIER's products only. The CUSTOMER has no claim to the Source Code. If the SUPPLIER provides the CUSTOMER with the Source Code, any development or modification of the software must be strictly linked to the use of the software on SUPPLIER's products only. For evaluation purposes of the development or modification of the software, the CUSTOMER may temporarily use the software on third party products. Any further use of the software, its modification or development on third party products is prohibited. The CUSTOMER must not transfer the Source Code to third parties. The CUSTOMER has the right to make copies of the software as far as necessary for backup and archival purposes.

## 9. Delivery term

- 9.1. The delivery term begins as soon as the contract has been signed, all administrative formalities such as import, export, transit and payment permits have been obtained, the payments to be made upon ordering and any securities have been issued, and the main technical points have been resolved. The delivery term has been observed if the notification of readiness for dispatch has been sent to the CUSTOMER by the time of the term's expiration.
- 9.2. For the delivery term to be observed, the CUSTOMER must have fulfilled its contractual obligations.
- 9.3. The delivery term is extended as appropriate:
- a) if the information required by the SUPPLIER for the fulfilment of the contract is not received on time, or if the CUSTOMER subsequently amends them and thereby causes a delay to the deliveries or services;
  - b) if obstacles arise that the SUPPLIER cannot avoid despite exercising due care, regardless of whether they originated from the SUPPLIER, the CUSTOMER or a third party. Such obstacles include, for example, epidemics, mobilisation, war, riots, serious disruptions to operations, accidents, labour disputes, delayed or faulty delivery of the necessary raw materials, semi-finished or finished products, scrapping of important workpieces, official actions or omissions, natural phenomena;
  - c) if the CUSTOMER or third parties are in arrears with the work to be carried out by them or have defaulted on their contractual duties, particularly if the CUSTOMER does not meet its payment obligations.
- 9.4. The CUSTOMER has the right to claim compensation for delayed deliveries if a delay has demonstrably been caused by the SUPPLIER and the CUSTOMER can show that this delay has caused damage. If the CUSTOMER is assisted with a replacement delivery, the claim for compensation for damages shall lapse. The compensation for damages amounts at most to 1/2% for each full week, but no more than 5% in total, of the contractual price of the delayed item. The first two weeks of the delay do not entail an entitlement to compensation. Once the maximum delay for compensation has been reached, the CUSTOMER must set the SUPPLIER a suitable grace period. If this grace period is not met for reasons under the SUPPLIER's responsibility, the CUSTOMER has the right to refuse to accept the delayed item in the delivery. If the CUSTOMER's participation in the contract is not commercially justified, the CUSTOMER has the right to withdraw from the contract and claim back any payments by returning completed deliveries.
- 9.5. If a specific time is agreed instead of a delivery term, this is equivalent to the last day of a delivery term; points 8.1 to 8.4 apply analogously.
- 9.6. Delay to deliveries or services does not give the CUSTOMER any rights or claims other than those expressly specified in point 8. This limitation does not apply to unlawful intent or gross negligence on the part of the SUPPLIER, but it does also apply to unlawful intent or gross negligence on the part of auxiliary persons.

## 10. Packaging

The packaging shall be billed separately by the SUPPLIER and shall not be taken back. However, if it has been designated the property of the SUPPLIER, it must be sent back postage paid by the CUSTOMER to the point of dispatch.

## 11. Transfer of risks and rewards

- 11.1. Risks and rewards are transferred to the CUSTOMER no later than when the deliveries leave the works.
- 11.2. If dispatch is delayed at the CUSTOMER's request or otherwise for reasons outside the supplier's responsibility, the risks are transferred to the CUSTOMER at the time at which the delivery was originally set to leave the works. From this point on, the deliveries shall be stored and insured at the CUSTOMER's expense and risk.

## 12. Shipping, transportation and insurance

- 12.1. The SUPPLIER must be informed in good time of special requirements relating to dispatch, transportation and insurance. Transportation is at the CUSTOMER's own expense and risk. Complaints relating to dispatch or transportation must be made by the CUSTOMER to the last carrier immediately on receipt of the deliveries or shipping documents.
- 12.2. Insurance against damages of any kind is the responsibility of the CUSTOMER.

## 13. Inspection and acceptance of delivery and service

- 13.1. The SUPPLIER shall inspect the deliveries and services before dispatch where it is customary to do so. If the CUSTOMER requests further inspections, these must be agreed upon specially and paid for by the CUSTOMER.
- 13.2. The CUSTOMER must inspect the deliveries and services within a reasonable time period and issue a complaint immediately and in writing in the event of any defects. If the CUSTOMER fails to do so, the deliveries and services are considered to have been approved.
- 13.3. The SUPPLIER must remedy the defects reported to it in accordance with point 12.2 as soon as possible, and the CUSTOMER must provide it with the opportunity to do so. Once any defects have been remedied, at the request of the CUSTOMER or SUPPLIER an acceptance inspection shall take place in accordance with point 12.4.
- 13.4. For an acceptance inspection to be carried out and for the conditions of the inspection to be established, a special agreement is required in accordance with point 12.3. Unless otherwise agreed, the following applies:
  - a) The SUPPLIER must notify the CUSTOMER of the acceptance inspection in sufficient time to allow the latter or its representative to take part in it.
  - b) A report of the acceptance shall be drawn up and must be signed by the CUSTOMER and SUPPLIER or by their representatives. The report shall specify that the delivery has been accepted, or that it has been accepted only conditionally, or that it has been refused by the CUSTOMER. In either of the last two cases, the defects asserted must be individually specified in the report. Minor defects, in particular defects that do not significantly affect the operation of the deliveries or services, do not entitle the CUSTOMER to refuse to accept the delivery or sign the acceptance report. Such defects must be remedied by the SUPPLIER immediately.
  - c) In the event of significant deviations from the contract or of major defects, the CUSTOMER must give the SUPPLIER the opportunity to remedy these within a suitable grace period. A further acceptance inspection shall then be carried out. If this inspection again reveals significant deviations from the contract or major defects the CUSTOMER may, if the contracting parties have agreed to either a price reduction, payment of compensation or any other service, demand such from the SUPPLIER. If, however, the defects or deviations that

are brought to light by this inspection are sufficiently serious that they cannot be remedied within a reasonable time period, and that the deliveries and services cannot be used for their specified purpose or can only be used for this purpose to a significantly reduced extent, the CUSTOMER has the right to refuse the defective item or, if participation is not commercially justified, to withdraw from the contract. The SUPPLIER can only be required to refund those amounts that have been paid to it for those items affected by the withdrawal.

13.5. The delivery or service is considered to have been accepted

- a) if the acceptance inspection cannot be carried out on the scheduled date for reasons outside the SUPPLIER's responsibility;
- b) if the CUSTOMER refuses the delivery without being entitled to do so;
- c) if the CUSTOMER refuses to sign an acceptance report drawn up in accordance with point 12.4;
- d) as soon as the CUSTOMER makes use of deliveries or services of the SUPPLIER's.

13.6. Defects of any kind in deliveries or services do not give the CUSTOMER any rights or claims other than those expressly specified in point 12.4 and point 13.

## 14. Guarantee, liability for defects

14.1. Guarantee term

The guarantee term is 24 months, or 12 months in the case of multi-shift operation. It begins when the deliveries leave the works or upon the agreed acceptance of the deliveries and services if applicable, or, if the SUPPLIER has also undertaken to assemble them, when assembly is complete.

For replaced or repaired items, the guarantee term begins again and lasts 12 months from replacement, completion of repairs or acceptance, but at most until the end of a time period twice the length of the guarantee period stipulated in the preceding paragraph.

The guarantee lapses immediately if the CUSTOMER itself or a third party alters or repairs the delivered products without the SUPPLIER's written consent, or if the customer, in the event of a defect, does not immediately take all necessary measures to reduce damage and does not give the SUPPLIER the opportunity to remedy the defect.

If the SUPPLIER repairs the defects caused by the intervention of the CUSTOMER or a third party, the guarantee period is not extended, nor does it begin again for the exchanged parts.

14.2. Liability for material, construction and workmanship defects

The SUPPLIER undertakes, at the written request of the CUSTOMER, to repair or replace, at its discretion and as quickly as possible, all items in the SUPPLIER's delivery that will demonstrably become defective or unusable by the end of the guarantee term as a result of poor-quality material, faulty construction or poor workmanship. Replaced parts shall become the property of the SUPPLIER.

The CUSTOMER has no claims relating to the costs necessary for the purposes of subsequent fulfilment, particularly transportation, road, labour and material costs, if the costs increase because the item in the delivery has subsequently been transferred to a location other than the CUSTOMER's office, unless the transfer is appropriate for its intended use.

14.3. Liability for guaranteed properties

Guaranteed properties are only those that have been expressly identified as such in the order confirmation or in the specifications. The guarantee applies until the expiration of the guarantee period at the latest. If an acceptance inspection has been agreed upon, the guarantee is considered to have

been satisfied if proof of the properties in question has been provided at the time of this inspection. If the guaranteed properties are not satisfied or only partially satisfied, the CUSTOMER may, in the first instance, demand immediate repair by the SUPPLIER. The CUSTOMER must give the SUPPLIER sufficient time and opportunity for this. If the repair is unsuccessful or only partially successful, the CUSTOMER is entitled to the compensation agreed upon for such an event, or, if no such agreement has been reached, to a reasonable reduction in the price. If the defect is sufficiently serious that it cannot be remedied within a reasonable time period, and if the deliveries or services cannot be used for their specified purpose, or can only be used for this purpose to a significantly reduced extent, the CUSTOMER has the right to refuse the defective item or, if participation is not commercially justified, to withdraw from the contract. The SUPPLIER can only be required to refund those amounts that have been paid to it for those items affected by the withdrawal.

#### 14.4. Exclusions from the liability for defects

The SUPPLIER's guarantee and liability excludes damages that cannot be shown to have been caused by poor-quality material, faulty construction or poor workmanship, e.g. those caused by normal wear and tear, lack of maintenance or improper treatment, disregard of operating instructions, non-compliance with environmental requirements, non-compliance with installation requirements, excessive use, unsuitable operating material, chemical or electrolytic influences, construction or assembly work not carried out by the SUPPLIER, or by other circumstances outside the SUPPLIER's responsibility.

Claims for defects do not arise in the event of insignificant deviation from the agreed quality, or insignificant impairment or usability.

This also applies to defects caused by material supplied by the purchaser. Claims for defects do not arise in the event of damages resulting from the actions of third parties, atmospheric discharge, power surges or non-reproducible software errors.

#### 14.5. Deliveries and services from subcontractors

In the event of deliveries and services provided by subcontractors and required by the CUSTOMER, the SUPPLIER shall only guarantee these within the framework of the warranty obligations of the subcontractor in question.

#### 14.6. Exclusivity of warranty claims

Defects of any kind in material, construction or workmanship, or resulting from a lack of guaranteed properties, do not give the CUSTOMER any rights or claims other than those expressly specified in points 13.1 to 13.5.

#### 14.7. Liability for ancillary obligations

The SUPPLIER is liable for the CUSTOMER's claims arising from inadequate advice or similar, or from the breach of any ancillary obligations, only in the event of unlawful intent or gross negligence.

## 15. Non-fulfilment, improper fulfilment and the consequences thereof

- 15.1. In all cases of improper fulfilment or non-fulfilment not expressly governed by these terms and conditions, particularly if the SUPPLIER begins carrying out the deliveries and services late without good cause such that it becomes unlikely that they will be completed on time, if the deliveries and services are authoritatively predicted to be carried out in breach of the contract for reasons attributable to the SUPPLIER, or if deliveries or services have been carried out in breach of the contract through the fault of the SUPPLIER, the CUSTOMER is entitled to set the SUPPLIER a suitable grace period for the deliveries or services in question under threat of withdrawal from the contract for the omission. If this grace period lapses through the fault of the SUPPLIER, the CUSTOMER may, with regard to the deliveries or services that have been carried out in breach of the contract or that are authoritatively predicted to be carried out in breach of the contract, withdraw from the contract and reclaim the appropriate proportion of any payments that have already been made.

- 15.2. In such a case, in relation to any claim for damages on the part of the CUSTOMER and the exclusion of further liability, the provisions in point 16 apply and the claim for damages is limited to 10% of the contractual price of the deliveries and services for which the withdrawal takes place.

## **16. Contract termination by the SUPPLIER**

If unforeseen events substantially alter the commercial significance or content of the deliveries or services or substantially influence the SUPPLIER's work, or if it subsequently becomes impossible to carry out the deliveries or services, the contract shall be adapted accordingly. If this is not commercially justifiable, the SUPPLIER has the right to terminate the contract or the relevant sections of the contract. If the SUPPLIER wishes to make use of its right to terminate the contract, it must inform the CUSTOMER of this immediately upon becoming aware of the implications of the event, even if an extension of the delivery term has initially been agreed. If the contract is terminated, the SUPPLIER is entitled to payment for the deliveries and services already performed. The CUSTOMER cannot claim damages as a result of such a termination.

## **17. Exclusion of further liability on the part of the SUPPLIER**

- 17.1. All cases of breach of contract and their legal consequences, as well as all claims on the part of the CUSTOMER, irrespective of their legal basis, are governed in full by these terms and conditions. In particular, any claims to compensation, reduction, annulment of the contract or withdrawal from the contract not expressly mentioned here may not be asserted.
- 17.2. Under no circumstances may the CUSTOMER claim compensation for damages not occurring to the delivered items themselves, such as loss of production, loss of use, loss of orders, loss of profit or any other direct or indirect damages. This exclusion of liability does not apply to unlawful intent or gross negligence on the part of the SUPPLIER, but it does also apply to unlawful intent or gross negligence on the part of auxiliary persons. Furthermore, this exclusion of liability does not apply if it is contrary to binding laws.
- 17.3. The statements made by the SUPPLIER regarding compliance with the ROHS and REACH guidelines are based on the statements of subcontractors. The SUPPLIER does not guarantee the correctness of these statements.

## **18. SUPPLIER's right of recourse**

If actions or omissions on the part of the CUSTOMER or the CUSTOMER's auxiliary persons cause injury to persons or damage to the possessions of third parties, and if claims are made against the SUPPLIER on this basis, the SUPPLIER has right of recourse to the CUSTOMER.

## **19. Validity of the contract**

- 19.1. If any individual provisions in these general terms and conditions prove to be invalid, this shall not affect the validity of the remaining provisions. This also applies to the validity of individual provisions in the contract between SUPPLIER and purchaser.
- 19.2. The invalid provision must be replaced by a legally valid and commercially equivalent provision.

## **20. Jurisdiction and applicable law**

- 20.1. The jurisdiction for the CUSTOMER and the SUPPLIER is the domicile of the SUPPLIER. However, the SUPPLIER has the right to prosecute the CUSTOMER at its own domicile.
- 20.2. The legal relationship shall be governed by substantive Swiss law.