

## General Terms and Conditions of Sale and Delivery

### 1 GENERAL CONDITIONS

#### 1.1 Catalogues, Price Lists, Offers

All offers in catalogues and price lists are not binding and may be changed by us without previous announcement. We particularly reserve the right to change prices at any time if need be. Where our offers do not contain definite time limits, we may freely handle them as far as prices and delivery terms are concerned.

#### 1.2 Time of Completion of Contract and Scope of Contract

Orders become binding only when confirmed in writing by us. Such written confirmation of order is also exclusively decisive for the contents of any agreement.

### 2 DELIVERY

#### 2.1 Delivery Term

Delivery term starts running with the completion of the contract, which includes the procuring of all official formalities, such as import, export, transit and payment authorizations, the remittance of payments and the provision of securities, if any, required at the time of the placement of the order, as well as the settlement of all essential technical points. Delivery term is met if, by the time of its expiration, notification is sent to Purchaser that the goods ordered are ready for shipment. We shall not meet the deadlines unless Purchaser has fulfilled its contractual obligations.

#### 2.2 Delivery Terms are adequately extended:

- a) if information necessary for the execution of the order is not given to us in time, if further technical examinations become necessary and if Purchaser makes additional modifications that cause delays in delivery or performance.
- b) if unforeseeable obstacles occur which are beyond our reasonable control, irrespective of their origin (either in our factory or at the buyer's or a third party's premises). Such obstacles include, but are not limited to, epidemics, boycotts, lockouts, workers uprisings, serious operational disruptions as well as mobilization, acts of God and other cases of force majeure. In addition, delays in the delivery of raw materials, semi-finished and finished products, cases in which important components in the manufacturing process become defective, or orders from authorities.

#### 2.3 Delay in Delivery

Where we do not meet a delivery date, Purchaser is not entitled to cancel the contract, unless delivery has still not occurred by the end of an additional term to perform, given to us in writing by Purchaser. Any claim for damages of Purchaser due to late delivery, non-delivery or cancellation of contract, is excluded to the maximum extent permitted under applicable law.

#### 2.4 Delay of Purchaser

If Purchaser delays in complying with its contractual obligations, in particular if it does not meet the agreed payment conditions, we reserve the right, in addition to the remedies provided by law, to keep back all deliveries resulting from any other contract entered into earlier or to cancel any such contract and to claim damages.

#### 2.5 Export control

Upon request, the Customer must truthfully complete the Statement of End-Use and return it to KISSLING AG within a reasonable period of time. The Customer shall be responsible for obtaining any import permits or licenses. If KISSLING AG determines before delivery that a Customer is on a sanctions list, KISSLING AG shall be entitled to withdraw from the contract without additional costs.

### 3 PRICES AND CONDITIONS OF PAYMENT

The prices and conditions are specified in our written order confirmation. Unless otherwise agreed, our prices are in Swiss Francs, net without deduction, free carrier (FCA), excluding packaging and Swiss VAT. Incidental costs, e.g. costs for packaging and dispatch/delivery (freight/transport) are not included in the prices, unless otherwise agreed, and shall be borne by the customer, as shall the applicable value added tax. We reserve the right to charge the customer retrospectively for any VAT that has not been invoiced.

In the event of late payment, unless otherwise agreed, the buyer shall bear all resulting costs and, from the due date of the invoice, default interest, which shall be at least 4% above the discount rate of the Swiss National Bank valid at that time.

The payment dates must also be observed if transport, delivery, installation, assembly, commissioning or acceptance of the delivery or service is delayed or made impossible for reasons for which we are not responsible or if parts of minor importance are missing or repair work is necessary which does not prevent the use of the goods.

### 4 TRANSFER OF RISK

Risk and benefit shall pass to the buyer according to Incoterms, as stated on the order confirmation. Transport is at the expense and risk of the buyer; we are in no case liable for damages in connection with the handling and transport of the goods.

### 5 RESERVATION OF TITLES CLAUSE

Title to the goods does not pass to Purchaser until Purchaser has paid for them completely. We are authorized to register the title to the goods delivered to Purchaser, and Purchaser must cooperate with the registration, if necessary. The Customer shall maintain the delivered items at its own expense for the duration of the retention of title and insure them in favour of the Supplier against theft, breakage, fire, water and other risks. The Customer shall also take all measures to ensure that the Supplier's claim to ownership is neither impaired nor cancelled.

### 6 DOCUMENTS/COPYRIGHT

We reserve title and copyright for any placed offers, quotations, designs, calculations and any other documents. Any such document may not be copied or intimated to third parties or made accessible to them.

### 7 ORDERS SUBJECT TO REQUEST FOR DELIVERY

Orders without firm delivery terms shall be called within one year, unless otherwise provided. Remaining goods which are not called on expiration of such period will be delivered and invoiced after an appropriate time limit for acceptance is granted.

Additional costs due to such delayed acceptance shall be borne by Purchaser. Orders on call with terms exceeding six months are expressly subject to changes in price.

## **8 WARRANTIES**

### **8.1 *Obligation to Notify***

Purchaser shall examine the delivered goods and performances in due time and immediately notify us in writing of any defect. Where it does not comply with such obligation, delivery and performance will be deemed to be approved of.

### **8.2 *Limited Warranty***

We warrant that the goods are free from defect in material or workmanship until the expiration of 12 months as from the date after notification of readiness for shipment; where ski lifts and chairlifts or similar installations are concerned, the date of commencement of operation (but not later than six months after delivery) If the delivery, acceptance or installation is delayed for reasons for which we are not responsible, the warranty is limited to 18 months from the date of notification of readiness for shipment.

Any parts replaced or repaired within the above warranty period are warranted for the remainder of the original warranty period as set out above, or for six months, as from replacement, repair or acceptance, whichever is longer.

Warranty ceases prematurely if Purchaser itself or a third party carries out improper changes or repairs, or if Purchaser, after a defect has occurred, fails to take all suitable urgent measures to reduce the damage (if in doubt, gears must be shut down) and to give us the opportunity to remedy the defect.

For later revisions and repairs we warrant that the works carried out are free from any defects until the expiration of six months.

### **8.3 *Liability for Defects in Material, Engineering and Workmanship***

On Purchaser's written request, we undertake to remedy or replace, as soon as possible and at our option, all parts of the delivery that become defective or unfit for use prior to the expiration of said warranty period if defect or unfitness can be proved to be the result of defective materials, faulty engineering or poor workmanship. Replaced parts shall become our property unless we expressly waive this right.

We bear the costs of re-treatment incurred in our plant. If re-treatment is not possible to be carried out in our plant, any cost exceeding the normal costs for transportation, staff, travelling and stay and for removal and fitting of the defective parts shall be borne by Purchaser.

Are deemed to be unusual in particular additional costs incurred for works at night or weekends or overtime, carried out at Purchaser's request. The same applies to additional transportation costs resulting from the Purchaser's wish to have the works carried out as a matter of priority.

### **8.4 *Liability for assured Qualities***

We do not guarantee any warranted quality of the goods unless it is expressly designated as such in our order confirmation or in our specification. A given assurance is only valid for the duration of the warranty period. If an acceptance test of the delivered goods is prescribed, the assurance shall be presumed to be satisfied if evidence for the said quality is produced at such control. Where assured qualities are not met, in whole or in part, Purchaser may first claim re-treatment to be carried out by us. It shall give us the necessary time and opportunity to do so.

If the subsequent treatment fails in whole or in part, the buyer is entitled to the compensation agreed for such cases, or if such an indemnity has not been agreed, to an adequate reduction of price. Where the defects are so serious that remedy in due course is impossible, and if the delivered goods or performances are unfit for the announced purpose, in whole or in substantial part, Purchaser is entitled to refuse acceptance of the defective parts or, if partial acceptance is commercially unreasonable, to cancel the agreement. Any return to Purchaser of the price paid includes only the parts that are concerned by the cancellation of the contract.

### **8.5 *Liability for consequential damages***

The Supplier shall only be liable for damage not occurring to the delivery item itself, for whatever legal reasons, in the event of intent, gross negligence and breach of guaranteed product characteristics.

Personal injuries are not subject to any separate limitation of liability. Any other claims are excluded.

### **8.6 *Exclusions of Liability for Defects***

Warranty and liability shall be excluded, unless Purchaser is able to prove that the damage is caused by defective materials, faulty engineering or poor workmanship. The exclusion is applicable to all causes beyond our control, such as usual wear and tear, faulty maintenance, disregarding of service regulations, excessive use, inappropriate operation means, chemical or electrolytic impacts, works not carried out by us, etc.

### **8.7 *Exclusiveness of Warranty Rights***

Except for the rights and claims as set out in items 8.1-8.5, Purchaser has no further rights resulting from any defects in material, engineering or workmanship or from lack of assured qualities.

All cases of breach of contract and their legal consequences as well as all claims of the buyer, for whatever reason, are fully regulated here. Any claim for damages, price reduction, cancellation or withdrawal from the contract is excluded, unless this is expressly stated herein. In no event shall Purchaser be entitled to ask for compensation for damages not originating in the delivered good itself, such as loss of production, of use, of commissions, of benefit, or for any other indirect or direct consequential damage. Such exclusion clause is void in case of wilful act or gross negligence on our side; it does, however, apply on wilful act or gross negligence on an auxiliary person's side.

The aforesaid exclusion clause is not valid in so far as cogent law counteracts.

### **8.8 *Liability for Side-Obligations***

We shall not be liable for any consequential damages, whether based on incorrect advice or otherwise and whether arising out of breach of any side-obligation, except only in the case of wilful act or gross negligence.

Liability acknowledgements by the service personnel shall be invalid.

## **9 GENERAL TERMS AND CONDITIONS OF PURCHASER**

We do not accept any general terms and conditions other than our own. The buyer expressly waives the right to refer to his own general terms and conditions.

## **10 AMENDMENTS**

Amendments and modifications to the terms and conditions herein shall be void unless made in writing.

## **11 PLACE OF PERFORMANCE**

The place of performance is Zurich, Switzerland.

## **12 JURISDICTION AND APPLICABLE LAW**

The place of jurisdiction is Zurich, Switzerland.

The applicable law is exclusively Swiss substantive law, excluding the Vienna Convention on the International Sale of Goods.