

General terms and conditions of service for Wartmann Technologie AG, CH-4538 Oberbipp (hereinafter “WTAG”)

1 General

- 1.1 The contract shall be deemed to have been entered into upon receipt by the Customer of written acknowledgement from WTAG of its acceptance of the order (“order confirmation”). Quotes which do not contain an acceptance deadline shall not be binding.
- 1.2 These general terms and conditions of service (“Delivery Conditions”) shall be binding even if not explicitly mentioned in a quote or in the order confirmation. Terms and conditions stipulated by the Customer which deviate from these Delivery Conditions shall be binding only upon the express written approval of WTAG.
- 1.3 All agreements and legally relevant declarations are only valid when confirmed in writing. Agreements and declarations which are transmitted or stored electronically as text shall have the same validity as their written equivalents.
- 1.4 Should any clause contained within these Delivery Conditions prove invalid in whole or in part, the Parties shall replace it with a new clause that comes as close as possible to the original clause in terms of its legal and economic effect. The validity of the remaining Delivery Conditions shall remain unaffected.

2 Scope of goods and services supplied

The goods and services provided by WTAG are described in the order confirmation and in any appendices or enclosures thereto. WTAG reserves the right to make amendments which lead to improvements, provided no price increases are incurred.

3 Drawings and technical documents

- 3.1 Brochures and catalogues shall not be legally binding unless otherwise agreed. Data in technical documents are only binding where these are expressly warranted.
- 3.2 Each contracting party shall retain all rights to plans and technical documents that have been passed on to the other party. The receiving party acknowledges these rights and shall not pass on any such documents to third parties, whether in whole or in part, without the written consent of the other party, or use such documents for any purpose other than that for which they were supplied.
- 3.3 All copyrights and co-copyrights in the documents provided by WTAG (including any attachments or enclosures), including inspections, certifications, assessment reports, etc., shall remain the sole property of WTAG.

4 Regulations in force in the country of destination and safety precautions

- 4.1 The Customer shall, at the latest at the time of placing an order, notify WTAG of any standards and regulations applicable, at the place of destination, on the execution and operation of the delivery of goods and services, on business practices and on health and safety.
- 4.2 In the absence of any other agreement, delivery of goods and services shall conform to the standards and regulations in force at the place, the Customer has indicated to WTAG according to Clause 4.1. Additional or other safety precautions shall be provided only where this has been expressly agreed. In the absence of a communication according to Clause 4.1., the delivery of goods and services shall conform to the regulations in force at the domicile of WTAG.

5 Prices

- 5.1 Unless otherwise agreed, all prices are net EXWOberbipp BE (Incoterms® 2010), in freely available Swiss francs, and do not include packing or any deductions of any kind.
- All additional costs, such as for freight charges, insurance, export, transit, import or any other permits and for any authentication or certification shall be borne by the Customer. The Customer shall also be liable for any taxes, duties, fees or tariffs which fall due in the process of fulfilling the contract and, upon production of valid receipts, shall reimburse WTAG on first demand for any payments for which the latter may have become liable.
- 5.2 WTAG reserves the right to adjust prices if wage rates or raw-material prices change in the period between the submission of the quote and the contractually agreed performance. In such a case, the price adjustment will be in accordance with Swissmem’s sliding scale price formula. WTAG further reserves the right to adjust prices where
- The delivery period is subsequently extended due to any of the reasons specified in Clause 8.3, or
 - The nature or scope of the goods or services to be delivered have changed, or
 - The material or the execution have changed as the documents supplied by the Customer did not match actual circumstances or were incomplete.

6 Terms of payment and default

- 6.1 The Customer shall make all payments to WTAG’s domicile in accordance with the agreed terms of payment and without any deductions for cash discounts, expenses, taxes, levies, fees, duties, etc.
- The Customer shall be deemed to have fulfilled its payment obligation once WTAG has received freely available Swiss francs in the amount invoiced at its domicile. If payment by bills of exchange has been agreed, the Customer shall be liable for the costs of discounting such bills, bill of exchange taxes and collection charges.
- 6.2 The Customer shall also comply with payment terms and make payments accordingly if the forwarding, delivery, assembly/erection, commissioning, acceptance or any other service is delayed or rendered impossible for reasons for which WTAG cannot be held responsible, or if non-essential parts are missing or post-delivery work proves necessary that does not prevent the goods or services from being used. Any set-off by the Customer of counter-claims against claims of WTAG is excluded.
- 6.3 If a downpayment is not made or contractually agreed securities are not provided as agreed in the contract, WTAG reserves the right, at its discretion, to uphold and enforce or to terminate the contract, and in either case shall be entitled to claim damages.
- If for any reason the Customer is in delay with any further payment, or if circumstances arising since entering into the contract give WTAG serious concern that payment will not be received in full or in a timely manner from the Customer, WTAG shall, without prejudice to its other legal rights (in particular to its right to withdraw according to art. 214 para. 3 CO, which is reserved), be entitled to suspend the further performance of the contract, including remedying defects, and to retain any deliveries ready for dispatch until payment has been received or

until new terms of delivery and payment have been agreed and WTAG has received sufficient securities. If within a reasonable time WTAG neither received payment nor reached a respective agreement with the Customer nor received sufficient securities, WTAG reserves the right to terminate the contract and claim damages.

- 6.4 If the Customer fails to meet the agreed payment dates, the Customer shall, without the need for a reminder, owe default interest with effect from the agreed payment date at a rate commensurate with interest rates prevailing at the Customer's domicile, but in any event not less than 4% above the current 3-month CHF-LIBOR rate. WTAG reserves the right to claim for further damages.

7 Reservation of title

All goods supplied shall remain the property of WTAG until all payments stipulated in the contract have been received in full. The Customer shall cooperate with any measures necessary to protect WTAG's title and in particular, upon entering into the contract, authorises WTAG to record its reservation of title in public registers, books or other records in accordance with the relevant national laws and to complete all formalities in this respect at the Customer's expense.

The Customer shall, at its own cost, be liable to maintain all goods supplied during the period of reservation of title and shall insure them for the benefit of WTAG against theft, breakage, fire, water damage and other insurable risks. He shall further take all precautions to ensure that WTAG's title is in no way prejudiced.

8 Delivery period

- 8.1 The delivery period shall begin as soon as the contract is entered into, all official formalities such as, but not limited to, import, export, transit and payment permits have been completed, all payments due upon the order have been made or securities provided and all essential technical points clarified. The delivery period shall be deemed to be observed if a notice of readiness for dispatch has been sent to the Customer within the agreed period.
- 8.2 Compliance with the delivery time is conditional upon the Customer's fulfilment of its contractual obligations, in particular all co-operation and payment obligations.
- 8.3 The delivery period shall be reasonably extended:
- If WTAG does not in a timely manner receive the information required for the performance of the contract, or if this information is subsequently altered by the Customer, thereby causing a delay to the delivery of goods or services;
 - If hindrances occur for reasons that WTAG cannot control despite exercising the required duty of care, regardless of whether these affect WTAG, the Customer or any third party. Such hindrances include, but are not limited to, epidemics, mobilisation, war, civil disturbance, major business disruption (e.g. resulting from accidents, industrial disputes, deficient data processing or data damage or loss), delayed or deficient delivery of the necessary raw materials, semi-finished or finished products, the scrapping of important work pieces, official actions or omissions by state authorities, natural catastrophes and acts of God; or
 - If the Customer or a third party is behind schedule with work it has to execute or with the performance of its contractual obligations, in particular if the Customer fails to observe the terms of payment.
- 8.4 If a specific date is agreed rather than a delivery period, this shall be equivalent to the last day of a delivery period; Clauses 8.1 to 8.3 shall be interpreted analogously.
- 8.5 The Customer shall not be entitled to claim for any delay in delivery or performance of services unless explicitly agreed in the signed order confirmation.

9 Packing

Packing shall be charged for separately by WTAG and shall not be returnable. However, if it is declared as the property of WTAG, it shall be returned by the Customer, carriage paid, to the place of dispatch.

10 Transfer of benefit and risk

- 10.1 The benefit and risk in the goods shall pass to the Customer on the date of their leaving the works at the latest.
- 10.2 If dispatch is delayed at the request of the Customer or for some other reason beyond WTAG's control, the risk in the goods shall pass to the Customer at the time originally foreseen for their leaving the works. From this moment on, the goods shall be stored and insured at the expense of the Customer.

11 Forwarding, transport and insurance

- 11.1 WTAG shall be notified in a timely manner of any special requirements regarding forwarding, transport or insurance. Transport shall be at the Customer's expense and risk.
- 11.2 Any objections arising from forwarding or transport shall be raised with the last carrier immediately upon receipt of goods or of shipping documents.
- 11.3 The Customer shall be responsible for taking out insurance against losses of any kind.

12 Inspection and acceptance of goods and services supplied

- 12.1 WTAG shall inspect the goods and services prior to dispatch, insofar as this is the usual practice. If the Customer requests further inspections or tests, these must be specially agreed and additionally paid for by the Customer.
- 12.2 The Customer shall inspect the goods and services supplied within a reasonable period and shall immediately, at the latest within 10 days from receipt, notify WTAG in writing of any defects. If the Customer fails to do this, the goods and services shall be deemed to have been approved and any liability of WTAG for defects shall be excluded.
- 12.3 WTAG must rectify any defects notified to it pursuant to Clause 12.2 as quickly as possible, and the Customer shall give WTAG the opportunity to do so. After rectification of such defects, an acceptance inspection as specified in Clause 12.4 shall take place at the request of the Customer or of WTAG.
- 12.4 Without prejudice to Clause 12.3, the performance of an acceptance inspection and the determination of the conditions applicable to such inspection shall be the subject of a special agreement. Any acceptance inspection taking place either based on Clause 12.3 or as specifically agreed shall be subject to the following, unless agreed otherwise:
- WTAG must give the Customer sufficient advance notice of the performance of the acceptance inspection to enable the Customer or its representative to take part in such an inspection.
 - A record of the acceptance shall be drawn up and shall be signed by the Customer and by WTAG, or by their representatives. This record shall state that the acceptance has been successfully completed, or that it was completed subject to reservation(s), or that the Customer refuses acceptance. In the last two cases, the alleged defects must be listed individually in the record. The Customer may not withhold acceptance or refuse to sign the acceptance record on account of minor defects, in particular those which do not substantially impair the suitability of the goods or services supplied for their declared functions. Defects of this sort must be rectified by WTAG following the acceptance.

- In case of substantial divergences from the contract or serious defects, the Customer must give WTAG the opportunity to rectify the said defects within an appropriate additional period, after which another acceptance inspection shall take place. If substantial divergences from the contract or serious defects are again identified during this second inspection, the Customer may request a reduction in price, compensation payment or other benefits from WTAG provided that the contracting parties have agreed on such remedies. If, however, the defects or divergences revealed during this second inspection are so serious that they cannot be rectified within an appropriate period, and the goods and services cannot be used for the agreed purpose or can only be used to a substantially reduced extent for such purpose, the Customer has the right to refuse acceptance of the defective part or, if such partial acceptance is economically unreasonable for the Customer, may withdraw from the contract. WTAG can only be obliged to refund those amounts that were paid to it for the parts affected by such withdrawal.
- 12.5 Acceptance shall also be deemed to have taken place:
- If the acceptance inspection cannot be carried out on the planned date or at the planned time due to reasons for which WTAG cannot be held responsible;
 - If the Customer refuses acceptance without being entitled to do so;
 - If the Customer refuses to sign an acceptance record prepared in accordance with Clause 12.4; or
 - As soon as the Customer uses the goods or services supplied by WTAG.
- 12.6 Deficiencies of any nature in goods or services supplied shall not entitle the Customer to any rights and claims other than those expressly stipulated in Clauses 12.4 and 13 (Guarantee, liability for defects).

13 Guarantee, liability for defects

13.1 Guarantee period (warranty period)

The guarantee period is 12 months; in case of multiple shift operation, it is 6 months. Said period shall commence on departure of the goods from the factory or on acceptance (if agreed) of the goods and services or, if WTAG also undertakes the assembly/erection, on completion thereof. If dispatch, acceptance or assembly/erection are delayed due to reasons for which WTAG cannot be held responsible, the guarantee period shall end 12 (or as the case may be 6) months after notification of readiness for dispatch. In respect of replaced or repaired parts, the guarantee period shall not start anew and shall not be extended. The guarantee shall expire prematurely if the Customer or a third party undertakes inappropriate modifications or repairs or if, in case of a defect, the Customer does not immediately take all appropriate steps to mitigate the damage and give WTAG the opportunity to rectify such defect.

13.2 Liability for defects in material, design and workmanship

- Upon written request by the Customer and as quickly as possible, WTAG undertakes, at its discretion, to either repair or replace all parts of the goods supplied by WTAG which, before expiration of the guarantee period, are proven to be damaged or unusable due to poor materials, faulty design or defective workmanship and which were duly notified according to Clause 12.2, provided that WTAG carried out all procurement of materials and the entire design, production or assembly/erection work. Otherwise, WTAG shall be liable solely within the scope of the work which it has undertaken.
- Replaced parts shall become the property of WTAG unless it expressly waives ownership thereof. WTAG shall bear the costs of reworking that are incurred in its factory. If the reworking cannot be undertaken in WTAG's factory, the associated additional costs shall be borne by the Customer.
- If materials are made available by the Customer or by a third party for processing or storage, WTAG shall be liable solely to the extent of the work which it performs in connection therewith.

13.3 Liability for warranted characteristics

Warranted characteristics are defined as only those characteristics which have been expressly specified as such in the order confirmation or in the specifications. Such warranty is valid until the expiry of the guarantee period at the latest. If an acceptance inspection is agreed, the warranty is deemed to have been fulfilled when proof of the relevant characteristics is furnished during such inspection. If the warranty regarding such characteristics is not fulfilled or is only fulfilled in part, the Customer shall initially be entitled to reworking by WTAG. The Customer must allow WTAG the necessary time and opportunity for this purpose. If this reworking is unsuccessful or is only partially successful, the Customer shall be entitled to the compensation agreed for this case or, if no such agreement was made, shall be entitled to an appropriate price reduction. If the defect is so serious that it cannot be rectified within an appropriate period, and the goods and services cannot be used for the agreed purpose or can only be used to a substantially reduced extent for such purpose, the Customer has the right to refuse acceptance of the defective part or, if such partial acceptance is economically unreasonable for the Customer, may withdraw from the contract. WTAG can only be obliged to refund those amounts that were paid to it for the parts affected by such withdrawal.

13.4 Exclusions from liability for defects

The following are excluded from WTAG's guarantee and liability: damage which cannot be proven to originate from poor material, faulty design or deficient workmanship, e.g. damage resulting from natural wear, inadequate maintenance, failure to observe the operating instructions, excessive loading, use of any unsuitable operating materials or equipment, the influence of chemical or electrolytic action, building or assembly/erection work not undertaken by WTAG, or due to other reasons for which WTAG cannot be held responsible.

13.5 Goods and services supplied by subcontractors

In respect of goods and services supplied by WTAG's subcontractors which were retained with the Customer's consent, WTAG shall provide a guarantee solely within the scope of the guarantee obligations of the subcontractors concerned.

13.6 Exclusivity of guarantee claims

In respect of any defective material, design or workmanship and any absence of warranted characteristics, the Customer shall not be entitled to any rights and claims other than those expressly stipulated in Clauses 13.1 to 13.5.

13.7 Liability for additional obligations

In respect of claims by the Customer arising from faulty advice and the like, or from breach of any additional obligations, WTAG shall be liable only in case of unlawful intent or gross negligence.

14 Non-performance, deficient performance and the consequences thereof

- 14.1 In all cases of deficient performance or non-performance which are not explicitly regulated in these Delivery Conditions and in particular if WTAG, due to its fault, is so late in commencing execution of the supply of the goods and services that prompt completion is no longer likely, if there is a definite likelihood of execution contrary to the terms of the contract due to WTAG's fault, or if the goods or services have been executed contrary to the terms of the contract due to WTAG's fault, then the Customer shall be authorised to set a reasonable additional period for the supply of the relevant goods or services, under threat of withdrawal in the event of non-compliance. If such additional period lapses unused due to WTAG's fault, the Customer may withdraw from the contract in respect of the goods supplied or services executed in contravention of the contract, or in respect of those for which there is a definite likelihood of supply or execution contrary to the terms of the contract, and may claim a refund of the payments already made in proportion to the goods or services in question.

- 14.2 In such case, the provisions of Clause 16 shall apply with regard to any claims for damages on the part of the Customer and with regard to the exclusion of any further liability, and any claim for damages shall be capped at 10% of the contract price for the goods and services to be supplied.
- 15 Termination of the contract by WTAG**
- The contract shall be adapted accordingly if unforeseen events substantially change the economic significance or content of the goods or services, or substantially affect the work of WTAG, or if performance subsequently becomes impossible. If such adaptation is not economically acceptable, WTAG shall be entitled to terminate the contract or the affected parts thereof. If WTAG wishes to invoke termination of the contract, it must inform the Customer immediately after becoming aware of the scope and implications of the event; this shall also apply if an extension of the delivery period was initially agreed. In case of termination of the contract WTAG shall be entitled to the payment for those goods and services already supplied. Claims for damages on the part of the Customer arising from such termination are excluded.
- 16 Exclusion of further liability on WTAG's part**
- All cases of breach of contract and the relevant legal consequences as well as all claims on the part of the Customer, irrespective of their basis in law, are conclusively governed by these Delivery Conditions. In particular, any claims not expressly mentioned herein for damages, reduction of price, termination of or withdrawal from the contract are excluded. In no case shall the Customer be entitled to claim compensation for damage which does not occur on the supplied object itself, including (for example) the following: loss of production, loss of use, loss of orders, loss of profit, capital costs, hold harmless against third party claims or any other consequential damages, irrespective of their legal basis. . This exclusion of liability does not apply to unlawful intent or gross negligence on the part of WTAG, but it does also apply to unlawful intent or gross negligence on the part of agents and assistants of WTAG.
- 17 WTAG's right of recourse**
- If persons are injured, the property of third parties is damaged or their rights are infringed due to actions or omissions on the part of the Customer or the Customer's agents and assistants, and if claims are advanced against WTAG for such reasons, WTAG shall have the right of recourse against the Customer.
- 18 Assembly/erection**
- If WTAG also carries out the assembly/erection or the monitoring thereof, the General Conditions of Assembly/Erection of Swissmem shall be applicable in this regard, insofar as they do not conflict with these Delivery Conditions.
- 19 Place of jurisdiction and applicable law**
- 19.1 The place of jurisdiction is Aarwangen, Canton of Berne, Switzerland. WTAG is nevertheless entitled to sue the Customer at the location of the latter's registered office or to bring an action before any other competent court.
- 19.2 The legal relationship shall be governed by substantive Swiss law. The application of the United Nations Convention of 11 April 1980 on Contracts for the International Sale of Goods (CISG) is excluded.

Oberbipp, 14 March 2013