



## HSP General Terms and Conditions of Sale and Supply

### 1. General

- 1.1 These General Terms and Conditions of Sale and Supply ("**Terms**") govern all sales of goods, equipment, documentation, software, work or services by HSP ("**Supplies**"). They shall apply to and be incorporated into all sale and supply agreements concluded with HSP and to all offers, quotations, deliveries provided by HSP.
- 1.2 Any terms and conditions of the customer ("**Customer**") in that conflict with or deviate from these Terms are expressly rejected, unless HSP agrees to them in written form.
- 1.3 Amendments and supplements must be made in writing.
- 1.4 These Terms also apply if HSP carries out the delivery or service to Customer without reservation despite being aware of Customer's deviating terms and conditions.

### 2. Conclusion of Contract

- 2.1 Offers and quotations by HSP shall be valid for the period specified in the offer/quotation, as applicable, or failing that, for a maximum period of 30 calendar days from the date of submission to Customer.
- 2.2 Customer orders ("**Order**") shall be made in writing or electronically. Orders only become binding on HSP after being confirmed by HSP in writing or electronically ("**Order Confirmation**").
- 2.3 Scope, quantity, quality, functionality, individual specifications, or special conditions are exclusively defined in the Order Confirmation shall apply in addition to these Terms and prevail in case of contradiction. The Order and Order Confirmation, together with these Terms and any other documents expressly identified in the Order Confirmation, shall constitute the entire agreement between Customer and HSP ("**Contract**").
- 2.4 Contracts are not cancellable. Any modification of a Contract requested by Customer requires a confirmation by HSP. Requests for modifications may result in an alteration of quoted prices, delivery deadlines, and compensation for already manufactured/assembled products and sourced materials. If the Customer and HSP mutually agree on a Contract cancellation, HSP may charge a reasonable remuneration covering its expenses and losses.

### 3. Supplies

- 3.1 HSP shall provide the Supplies in accordance with the agreed specification and the final definition of the Supplies according to the Contract.
- 3.2 Services are only owed by HSP if they are expressly agreed.



#### 4. Obligations of Customer

- 4.1 Customer shall appoint a contact person for HSP.
- 4.2 Customer shall support HSP realising the Supplies as far as possible and reasonable. This includes providing HSP with any necessary and useful information, documents, data, manufacturing parts and components, and software for this purpose.
- 4.3 Customer shall apply for and obtain all necessary licenses, permits, and approvals required for the commissioning, accepting, and using the Supplies.

#### 5. Right of Use

- 5.1 All intellectual and industrial property rights in the Supplies, in all documents provided by HSP in connection with the Contract (the “**Documents**”), and in all software, hardware, and know-how, and other things provided with or as part of the Supplies and the Documents remain the exclusive property of HSP and its Affiliates. “**Affiliate**” means any entity, including without limitation, any individual, corporation, company, partnership, limited liability company or group, that directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with a party. Customer shall not reverse engineer, decompile, or reproduce the Supplies or parts thereof and shall ensure that third parties will not reverse engineer, decompile, or reproduce the Supplies or parts thereof in each case to the extent mandatory law does not prohibit such limitation.
- 5.2 If not explicitly agreed otherwise, all intellectual property rights belong to HSP and its Affiliates for design and development activities performed in connection with a Contract,
- 5.3 Customer may use the Documents unmodified and to the extent necessary for operation and routine maintenance of the Supplies by its own personnel, unless explicitly agreed otherwise in writing by HSP.
- 5.4 The rights granted in this clause shall be transferable to a third party only together with the transfer of ownership of all the Supplies to that third party.

#### 6. Prices and Terms of Payment

- 6.1 Unless agreed otherwise in writing, all prices shall be FCA (according to the Incoterms in force at the moment of the Order Confirmation), in the currency stated in the Order Confirmation without any deductions whatsoever, and exclude freight, insurance, and any other additional charges such as storage and inspections by third parties (“**Contract Price**”).
- 6.2 The Contract Price is a net price exclusive of any indirect taxes (such as property, license, sales, use, value added, or similar tax) and any duties, customs, or public charges related to the Contract. Accordingly, Customer agrees to pay or reimburse HSP for any taxes, customs, duties, or other public charges levied on HSP in relation to the Supplies.
- 6.3 All payments must be made without deduction within 30 calendar days after the invoice is issued. If payments are not received by the end of the payment term, Customer is automatically in default without further notice.
- 6.4 Without prejudice to any other rights it may have, HSP may charge interest at 9 percentage points above the European Central Bank’s current base lending rate on any overdue payments.



- 6.5 Each party must pay all sums that it owes to the other party under this Contract free and clear without any set-off, counterclaim, deduction, or withholding of any kind, save as agreed otherwise in writing or as may be required by law.
- 6.6 HSP standard documents in English are included in the price and will be forwarded at the time of shipment. If other documents or another format are requested, same would be at an additional price.
- 6.7 If applicable laws, rules, and regulations, engineering standards and codes of practice, and decisions or guidance issued by courts or public authorities are amended or added to after the Contract signature date, then HSP shall be entitled to an adjustment of the Contract, including, among others, an adjustment of the Contract Price to reflect any additional costs to be incurred by HSP, the time schedules and scope of Supplies, as necessary to compensate for any adverse effects or additional requirements deriving from such changes.
- 6.8 HSP shall comply only with those engineering standards and codes as listed in the technical specifications at the date of the Contract. In the event that, at any time, mandatory local codes or standards in the country where the Supplies are destined to be used stipulate more stringent or onerous requirements with regard to the Supplies, Customer is obliged to inform HSP accordingly and Customer shall (i) request a quotation from HSP specifying the effect of those more stringent requirements on the total Contract Price, on the agreed dates for delivery of the Supplies, the payment and any other provision under the Contract, and (ii) the Contract shall be adjusted based on HSP's quotation.

## **7. Delivery Times and Delay**

- 7.1 Delivery shall be made FCA (according to the Incoterms in force at the moment of the Order Confirmation) from the place indicated in the Order Confirmation, unless expressly otherwise agreed.
- 7.2 Any agreed dates in respect of the Supplies or any part of them shall be extended by a reasonable period of time if and to the extent that HSP is delayed or impeded in the performance of its obligations by any third party or by the failure of Customer to perform its obligations. This includes without limitation the delivery of required documents (such as necessary permits and approvals), timely performance of any work to be undertaken by Customer or any third party appointed by Customer, and compliance with the payment terms.
- 7.3 If reasonable, HSP may deliver the Supplies in stages or instalments and shall be entitled to invoice for them on a corresponding basis.
- 7.4 If HSP does not meet the agreed final delivery date solely due to the fault of HSP, Customer shall be entitled to liquidated damages amounting to 0.5% of the price of the delayed part of the Supplies per each completed week of delay but shall not exceed 5% of the price of the delayed part of the Supplies.
- 7.5 Any other liability of HSP and any claims, rights, and remedies of Customer in case of delay except as expressly stipulated in this Clause 7 and in Clause 17.2 a) below shall be excluded to the extent permissible by law.
- 7.6 If Customer, Customer's contractors, or any other third party appointed by Customer causes a delay to the provision of the Supplies, Customer shall reimburse HSP all reasonable additional costs and expenses incurred due to such delay.



## **8. Transfer of Risk and Title**

- 8.1 The risk of damage to or loss of any part of the Supplies shall pass to Customer upon delivery pursuant to the applicable Incoterms.
- 8.2 The Supplies shall be deemed delivered if and when Customer fails to take over the delivery without cause. In such case, the Supplies can be stored and insured at the Customer's risk and expenses and any payment shall become due. The same consequences shall apply on the scheduled delivery date if the dispatch is postponed for reasons attributable to Customer. In such an event, the risk shall pass to Customer when that the Suppliers are deemed delivered.
- 8.3 Title in any part of the Supplies shall remain with HSP until HSP has received full payment for that part of the Supplies.

## **9. Inspection and Defects**

- 9.1 Customer must inspect the Supplies immediately upon receipt and notify HSP of any apparent defects without undue delay. If Customer fails to notify HSP, the Supplies shall be deemed approved, unless the defect was not recognisable during the inspection. If such a defect is discovered later, the notification must be sent immediately after discovery; otherwise, the Supplies are deemed also to have been approved in view of this defect. Defect means not in accordance with contractual specifications.
- 9.2 The above-mentioned notification shall include a full description of the alleged defects and deficiencies and information about the moment of discovery.
- 9.3 Any claim made by Customer with regard to the Supplies shall be extinguished, if:
  - a) Customer has failed to notify the defect of the Supplies to HSP in proper time mentioned in Clause 9.1;
  - b) the defects were caused by normal wear and tear, non-conformity resulting from excessive strain;
  - c) the defects were caused by non-conformity resulting from faulty or negligent handling; non-compliance with instructions or recommendations in operation or maintenance manuals and other documents;
  - d) the defects were caused by installation, erection, modification, commissioning, or pre-commissioning, in each case not carried out by HSP; or
  - e) the defects do not significantly impair the use of the respective Supplies.

## **10. Defects liability**

- 10.1 The defects liability period for any part of the Supplies is 12 months and starts at the date of transfer of risk unless otherwise agreed.
- 10.2 For replaced or repaired parts of the Supplies, the defects liability period is 6 months from the date of replacement or repair if the original defects liability period for the Supplies expires earlier. In any event, the defects liability period shall end no later than 24 months from the beginning of the original defects liability period.



10.3 HSP shall, at its option, remedy a defect by repair, replacement, or re-performance. HSP shall be given a reasonable period of time and opportunity to remedy the defect. For this purpose, Customer shall grant HSP working access to the non-conforming Supplies, undertake any necessary disassembly and re-assembly, and provide access to operation and maintenance data, all at no charge to HSP. Upon HSP's request, Customer shall ensure that the title of the replaced parts/items passes to HSP.

Unless otherwise agreed in writing, HSP shall have no liability for the costs of packaging, dismantling, transportation (beyond the agreed INCOTERMS), re-assembly, and re-installation of any goods affected under this warranty. These costs shall be borne by Customer or reimbursed to HSP on presentation of its invoice.

10.4 If HSP carries out remedial work and it is ultimately not established that a defect was caused by circumstances for which HSP is responsible, Customer shall pay HSP for such remedial work, including error diagnosis.

10.5 Any other liability of HSP and any claims, rights and remedies of Customer shall be excluded except as expressly stipulated in this Clause 10 and – provided HSP failed at least three times in remedying the defect – in Clause 17.2 b). All warranties, representations, conditions, and all other terms of any kind whatsoever implied by statute or law are, to the fullest extent permitted by applicable law, excluded from the Contract.

## 11. Force Majeure

11.1 If a Force Majeure Event occurs, the Affected Party will be deemed not to be in breach of its obligations under the Contract for so long as and to the extent necessary to overcome the effects of the Force Majeure Event.

11.2 A **"Force Majeure Event"** means any event which is beyond the reasonable control of a party or its subcontractors, which could not have been prevented by good industry practice and which results in a party, its Affiliates or any of its sub-contractors or sub-suppliers (the **"Affected Party"**) being unable to perform or being delayed in performing in whole or in part its obligations under this Contract. Force Majeure Events include, among others, acts of war, riot, civil commotion, terrorism, natural disasters, epidemics, pandemics and government-imposed lockdowns, strikes, disruption of global or regional supply chain, lock-outs, attacks on IT systems (such as virus attacks, hacker attacks), non-issuance of licences, permits or approvals, or any other act or failure to act by any public authority, or embargos or any other trade.

11.3 The Affected Party shall notify the other party as soon as reasonably practicable of the Force Majeure Event and of its affected obligations.

11.4 If one or more Force Majeure Events and their effect lasts for 180 calendar days in aggregate, either party may terminate the Contract by giving the other a written notice of termination regarding the part of the Supplies not yet delivered. With regard to the part of the Supplies not delivered, HSP shall be entitled to reimbursement from Customer of its unavoidable costs related to such termination.



## 12. Intellectual Property Rights

- 12.1 If a third party asserts legitimate claims against Customer that the Supplies infringe an intellectual property right (“**IPR**”) owned by such third party, then subject to the following provisions of this Clause 12, HSP shall, at its option and expense, either
- a) obtain a right to use the relevant IPR in connection with the Supplies; or
  - b) modify the Supplies so as not to infringe on the relevant IPR; or
  - c) replace the infringing part of the Supplies.

If HSP believes none of the foregoing is reasonably possible, HSP may take back the relevant part of the Supplies and reimburse the price for such part.

- 12.2 HSP’s obligations in Clause 12.1 are subject to the following conditions:

- a) Customer has immediately notified HSP in writing of the third party’s claim and furnished HSP with a copy of each communication, notice or other action relating to the alleged infringement,
- b) Customer does not acknowledge an infringement and provides HSP with the authority, information, and assistance reasonably required by HSP to defend or settle such claim, and
- c) HSP is given sole control of the defence (including the right to select counsel), and the sole right to settle such claim.

If Customer ceases to use the Supplies or any relevant portion thereof, it shall notify the third party in writing that its cessation of use is not an admission of IPR infringement.

- 12.3 Any Customer claims shall be excluded if Customer (including its agents, employees, or contractors) is responsible for the IPR infringement. Customer shall be deemed responsible for the claimed IPR infringement if, without limitation, it was caused by (i) specific demands of Customer, (ii) use of the Supplies for a purpose or in a manner not foreseeable by HSP, (iii) a modification of the Supplies by Customer, or (iv) use of the Supplies in connection with other equipment.
- 12.4 This Clause 12 sets forth HSP’s entire liability for infringement of third party IPRs. Any other claims, rights, and remedies of Customer shall be excluded.

## 13. Liability

- 13.1 The liability of HSP in contract, tort or otherwise shall be limited to fulfilling the contractual obligations. The liability of HSP shall be limited in every case to compensation for direct damages. Any other liability, including, but not limited to, indirect and consequential damages, loss of profit, loss of revenues, loss of data, loss of use, claims arising from Customer’s contracts with third parties, loss of hydrocarbons, and loss of power, cost of purchased or replacement power, is hereby expressly excluded to the extent permissible by law.



- 13.2 Customer shall have no rights or claims, regardless of their basis (including, but not limited to, damages, reduction of price, termination or withdrawal from the contract), except for those mentioned explicitly in these Terms, except for bodily injuries and damages caused intentionally or grossly negligently by HSP.
- 13.3 HSP's total liability shall not exceed 20% of the Contract Price per event and shall, under any circumstances, be limited in aggregate to 100% of the Contract Price.
- 13.4 Any limitations of liability shall also apply for the benefit of HSP's Affiliates, subcontractors, employees, agents or any other person acting for HSP.

#### 14. Assignment

- 14.1 Customer may not assign the Contract or any part thereof without HSP's prior written approval.
- 14.2 HSP may transfer, assign, or novate the Contract or any part of it to an Affiliate.
- 14.3 HSP shall further be entitled to assign the whole Contract or a part of it to any third party, in the event of a sale or other transfer of the business or a part of the business of HSP to a third party.

#### 15. Confidentiality

- 15.1 The parties shall use any documents, know-how, data, or other information provided by the other party ("**Confidential Information**") exclusively for the purpose of the Contract and keep the same confidential. The parties may disclose Information to employees of the receiving party and to third parties who reasonably need to know such Confidential Information for the purpose of the Contract provided such employees and third parties are bound by equivalent confidentiality obligations. The party disclosing Confidential Information shall be held liable for a breach of such obligations by its employees or a third party.
- 15.2 This confidentiality obligation shall not apply to Confidential Information which:
- a) is or becomes part of the public domain other than by fault of the receiving party;
  - b) is disclosed to the receiving party in good faith by a third party who is entitled to make such disclosure;
  - c) is developed independently by the receiving party without reliance on Confidential Information;
  - d) was known to the receiving party prior to its disclosure by the other party; or
  - e) is required to be disclosed by law (subject to the receiving party's obligation to notify the disclosing party in a timely manner of such requirement).
- 15.3 This confidentiality obligation shall survive the expiration or termination of the Contract for 5 years.



## 16. Suspension

- 16.1 HSP may suspend the performance of its obligations under the Contract, if (i) Customer is in delay with any payment, (ii) Customer fails to perform those of its obligations necessary for HSP to complete or deliver the Supplies, or (iii) Customer otherwise materially breaches the Contract.
- 16.2 If HSP suspends the Contract, Customer shall immediately be liable to pay HSP for all parts of the Supplies already provided and reimburse HSP for all reasonable additional costs and expenses incurred as a result of such suspension. Any contractual dates shall be extended for a reasonable period to overcome the effects of the suspension.

## 17. Termination

- 17.1 Either party may terminate the Contract with immediate effect by written notice, if the other party becomes bankrupt or insolvent, has a receiving order made against it or compounds with its creditors, carries on business under a receiver, trustee, or manager for the benefit of its creditors, or goes into liquidation.
- 17.2 Save as provided under Clause 11.4 and Clause 17.1, Customer may terminate the Contract only in the circumstances set out below and in each case upon 14 calendar days written notice to HSP:
- a) in the event of delay, if the maximum liquidated damages under Clause 7.4 are payable, a reasonable additional period of time for delivery has been granted to HSP and has expired; or
  - b) in the event HSP has materially breached the Contract and has not remedied the breach within a reasonable period after receiving written notification of the breach from Customer.
- 17.3 Any termination by Customer shall not affect those parts of the Supplies already delivered or performed in accordance with the Contract prior to the termination. In the event of termination in accordance with Clause 17.2, Customer shall remain liable to pay HSP for all parts of the Supplies already delivered prior to termination.
- 17.4 Notwithstanding any other rights it may have under this Contract, HSP may terminate the Contract:
- a) if Customer comes under the direct or indirect control of any competitor of HSP, or
  - b) if Customer materially breached the Contract and has not remedied the breach within a reasonable period after notification by HSP or is delayed in making any payment for more than 60 calendar days; or
  - c) if the Contract has been suspended for more than 60 calendar days.
- 17.5 In the event of termination by HSP, HSP shall be entitled to recover from Customer (i) the Contract Price less any saved or avoided expenditure and (ii) any additional cost and expenses incurred by HSP due to such termination.



## 18. Governing Law and Dispute Resolution

- 18.1 The Contract and any dispute or claim arising out of, or in connection with, it or its subject matter or formation (including non-contractual disputes or claims) shall be exclusively governed by and construed in accordance with the substantive laws at the registered office of the HSP entity issuing the Order Confirmation, excluding any conflict of laws provisions and the United Nations Convention on Contracts for the International Sale of Goods (CISG).
- 18.2 All disputes arising out of or in connection with the Contract shall be submitted to the International Court of Arbitration of the International Chamber of Commerce and shall be finally settled in accordance with the Rules of Arbitration of the International Chamber of Commerce (“**ICC**”). If the value of the total matter in dispute, including the value of any counterclaims, is € 1 million or above, the expedited procedure provisions of the Rules shall not apply, and the arbitral tribunal shall consist of three arbitrators, otherwise one arbitrator. If the tribunal consists of three arbitrators, each party shall nominate one arbitrator for confirmation by the ICC. Both arbitrators shall agree on the third arbitrator, within 30 calendar days after their appointment. Should the two arbitrators fail to reach agreement on the third arbitrator within the thirty-day period, the ICC shall select and appoint the third arbitrator. The language to be used in the arbitration proceeding shall be English. Any order for the production or disclosure of documents shall be limited to the documents on which each party specifically relies in its submission(s).
- 18.3 The seat of arbitration shall be as follows:

<b>Registered address of HSP entity in country</b>	<b>Seat of arbitration</b>
Austria	Linz, Austria
Brazil	Sao Paulo, Brazil
Bulgaria	Sofia, Bulgaria
Canada	Toronto, Canada
China	Singapore, Singapore
France	Paris, France
Germany	Berlin, Germany
Italy	Milan, Italy
USA	Toronto, Canada



## **19. Export Regulations**

- 19.1 Customer shall comply with all applicable national and international (re-) export control, customs, sanctions, and embargo regulations and in any event with those of the European Union, the United Kingdom, and the United States of America.
- 19.2 Customer shall not sell, export, or re-export, directly or indirectly, to the Russian Federation or for use in the Russian Federation any Supplies provided by HSP under or in connection with the Contract that fall under the scope of any sanction law and ordinance imposing measures in connection with the situation in Ukraine, in particular, without being conclusive, those laws, ordinances, and measures issued by the competent authorities of the EU countries, of the UK and of Germany. The Buyer shall set up and maintain an adequate monitoring mechanism to detect conduct by any third parties further down the commercial chain.
- 19.3 If required to conduct export control, customs, sanctions and embargo regulations checks, Customer, upon request by HSP, shall promptly provide HSP with all information pertaining to a particular end customer, destination and intended use of the Supplies provided by HSP, as well as any existing export control, customs, sanctions, and embargo restrictions.
- 19.4 HSP shall be entitled to terminate the Contract by written notice in the event of a breach by Customer of Customer's obligations pursuant to Clause 19. Customer shall indemnify and hold harmless HSP from and against any claim, proceeding, action, fine, loss, cost, and damages arising out of or relating to any non-compliance of Customer's obligations pursuant to Clause 19, and Customer shall compensate HSP for all losses and expenses resulting therefrom.