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General Terms and Conditions of Sale and Delivery of Nachbur AG

1. General

- 1.1 The customer acknowledges these General Terms and Conditions of Sale and Delivery of Nachbur AG as an inherent part of the contracts on which its orders from Nachbur AG (hereinafter "supplier") are based and as an inherent part of each individual order.
- 1.2 These General Terms and Conditions of Sale and Delivery shall be binding if (alternatively) declared applicable in the offer, the quotation, in any framework agreement or in the order confirmation. They shall apply exclusively and for an indefinite period unless they are amended by express written agreement. They shall also apply if the Supplier carries out the delivery to the Purchaser without reservation in the knowledge that the Purchaser's terms and conditions conflict with or deviate from them. Any terms and conditions of the Purchaser to the contrary shall not become part of the contract, even if the Supplier does not expressly object to them. Other terms and conditions of the Customer shall only be valid if they have been expressly accepted by the Supplier in writing.
- 1.3 Should any provision of these General Terms and Conditions of Sale and Delivery be or become ineffective or contain a loophole, the legal effectiveness of the remaining provisions shall not be affected thereby. In place of the ineffective provision, a provision shall be deemed to have been effectively agreed from the outset which comes closest in economic terms to the provision intended by the contracting parties. The same shall apply in the event of a loophole.

2. Offers of the Supplier

Offers and quotations of the Supplier, namely also those made in writing, by telephone, in personal conversation or by e-mail, shall be deemed to be subject to change and non-binding, unless and insofar as they are explicitly and demonstrably designated as "binding" and (cumulatively) contain a term of acceptance. Brochures and catalogues of the Supplier are not binding unless otherwise agreed. 3.

3. Acceptance or Order by the Purchaser

- 3.1 Acceptance by the Customer of non-binding offers and quotations from the Supplier shall not constitute a contract but shall merely be deemed to be an order subject to acceptance. With the acceptance or order, the present General Terms and Conditions of Sale and Delivery of the Supplier shall be deemed to have been accepted by the Purchaser.
- 3.2 If an enquiry by the Customer qualifies as an offer, it shall be deemed to be an order requiring acceptance. 4.

4. Acceptance by the Supplier

- 4.1 The contract shall be deemed to have been concluded upon receipt of the Supplier's written confirmation that it accepts the Purchaser's order (order confirmation). The delivery as such shall also be deemed to constitute the order confirmation.
- 4.2 If the Customer wishes to make changes to the order confirmation or if it considers the content of the order confirmation to be incorrect, it must declare this in writing immediately after receipt of the order confirmation. The Supplier shall inform the Purchaser within two weeks whether the change is possible and what effects it has on the provision of the services, the deadlines, and the prices. The Supplier shall be bound by any offer to change the performance for a period of two weeks. For products for which benefit, and risk have already passed, the original contract shall apply. 5.

5. Scope of deliveries and services

The Supplier's deliveries and services are listed exhaustively in the order confirmation.

6. Prices and terms of payment

- 6.1 Unless otherwise agreed, all prices are net, ex works (EXW, Incoterms 2020), without packaging, in Swiss francs (CHF) and are payable within 30 days of invoicing.
- 6.2 We expressly reserve the right to make price changes due to price increases by suppliers, exchange rate changes, delays in delivery, wage changes, increases in energy costs or other events. An appropriate price adjustment shall be made if the delivery period is subsequently extended for one of the reasons stated in Clause 9 (Deliveries, delivery time, delay in delivery) or if the documents supplied by the Purchaser did not correspond to the actual circumstances or were incomplete.
- 6.3 The packaging shall be invoiced separately by the Supplier and shall not be taken back. However, if it has been designated as the property of the Supplier, it must be returned by the Purchaser carriage paid to the place of departure.
- 6.4 Payments shall be made at the Supplier's domicile without deduction of discounts, expenses, taxes, levies, fees, customs duties and the like. The offsetting of any counterclaims of the Customer against claims of the Supplier is excluded. The assignment of claims against the supplier is not permitted. Payments shall be made irrespective of any possible objections to the delivery or alleged counterclaims. Retention of payment is not permissible. The Supplier shall be entitled to refuse to remedy possible defects if the Purchaser has not fulfilled its payment obligation. The purchase price shall also become due for payment if the Purchaser is in default of acceptance.

7. Default in payment

- 7.1 The receipt of payment by the Supplier shall be decisive for the timeliness of payment. If the payment deadline is not met, the customer shall be in default without any further reminder from the supplier. In the event of default in payment on the part of the Purchaser, interest on arrears shall be due from the due date at the rate of 8% p.a. of the invoice amount. Reminder costs of CHF 50.00 shall be charged for each reminder.
- 7.2 In the event of any delay in payment or in the event of liquidity difficulties on the part of the Purchaser, the Supplier shall be entitled to demand advance payment for further deliveries or to deliver only against advance payment, even if other payment and delivery conditions were agreed when the contract was concluded, without itself being in default.
- 7.3 Default in payment on the part of the Customer shall cause all claims of the Supplier against the Customer to become due immediately. Failure to comply with the terms of payment shall entitle the Supplier to withdraw from the contract and to claim damages. The Supplier shall also be entitled to withdraw from the contract and to demand the return of the goods from the Customer if the goods have passed into the Customer's possession before payment of the purchase price. The Purchaser shall have no right of retention.
- 7.4 If, after the conclusion of the contract, the Supplier becomes aware of circumstances which call into question the credit-worthiness of the Purchaser, or if its claim to payment is significantly jeopardized due to the Purchaser's financial collapse, or if the Purchaser defaults on payment of the purchase price, the Supplier may demand advance payment or security within a reasonable period and refuse performance until its demand has been met. In the event of refusal by the Purchaser or fruitless expiry of the deadline, the Supplier shall be entitled to withdraw from the contract in whole or in part without itself being in default and to claim damages for non-performance.

8. Place of performance and transfer of benefit and risk

- 8.1 The place of performance for all payments in kind, money and services arising from the contract shall be the Supplier's domicile. Benefit and risk shall pass to the Purchaser at the latest upon dispatch of the delivery ex works (EXW, Incoterms 2020). Shipment shall be made for the account and at the risk of the Purchaser. The Purchaser shall be responsible for insuring the services and deliveries against loss and damage.
- 8.2 If dispatch is delayed at the request of the Purchaser or for other reasons for which the Supplier is not responsible, the risk shall pass to the Purchaser at the time originally envisaged for delivery ex works (EXW, Incoterms 2020). From this point in time, the deliveries shall be stored for the account and at the risk of the Purchaser and shall be insured at the request of the Purchaser.

9. Deliveries, delivery time, delay in delivery

- 9.1 The delivery period shall begin as soon as the contract has been concluded and all product requirements and technical questions have been clarified.

- 9.2 The Supplier shall make every effort to deliver the agreed products to the Customer on the dates specified in the order confirmation. The delivery period shall be deemed to have been complied with if the notice of readiness for dispatch has been sent to the Purchaser by the expiry of the delivery period.
- 9.3 The delivery period shall be reasonably extended if:
- a) the Supplier does not receive the information required for the performance of the contract in due time, or if the Purchaser subsequently changes such information and thus causes a delay in the deliveries or services.
 - b) obstacles arise which the Supplier cannot avert despite exercising due care, irrespective of whether they arise at the Supplier's premises, at the Purchaser's premises or at the premises of a third party. Such hindrances include, for example, epidemics, mobilization, war, riots, major operational disruptions, accidents, labour disputes, late or defective delivery of the necessary raw materials, semi-finished or finished products, rejects, official measures or omissions, natural events.
 - c) the Purchaser is in default with the fulfilment of its contractual obligations if the Purchaser does not comply with the terms of payment.
- 9.4 Any damage caused by delay shall be limited to the value of the delivery. Consequential damages caused by delay, costs for covering purchases, loss of profit and damages from business interruption are expressly excluded. The Purchaser shall not be entitled to withdraw from the contract because of delayed delivery.
- 9.5 If the Purchaser is in default of acceptance or violates other obligations to cooperate, the Supplier shall be entitled to give preference to other orders from third parties and to extend the delivery period appropriately. Without prejudice to further claims, the Supplier shall be entitled to claim damages for the loss incurred by it, including any additional expenses.
- 9.6 Partial deliveries are permissible insofar as this does not result in any disadvantages for use.
- 9.7 Call-off orders must be called off in such a way that the last delivery can be completed no later than 12 months from the date of the order. After this date, storage charges and interest will be charged.
- 9.8 The ordered quantity will be delivered with the usual industry tolerance of +/-10%.
- 10. Acceptance of delivery, dispatch, transport, insurance**
- 10.1 The refusal of the Purchaser to accept the delivery shall cause the purchase price to become due immediately, irrespective of the handover of the products to the Purchaser. The Supplier shall not be obliged to deposit the Products. Instead, it may waive the execution of the order and demand a contractual penalty from the Purchaser in the amount of the purchase price. The Supplier reserves the right to claim further damages.
- 10.2 The Supplier must be informed in good time of any special requests regarding dispatch, transport, and insurance. Transport shall be for the account and at the risk of the Purchaser.
- 10.3 Insurance against damage of any kind shall be the responsibility of the Purchaser.
- 11. Inspection and notification of defects**
- 11.1 The Supplier shall inspect the deliveries and services as far as is customary before dispatch. If the Purchaser requires further inspections, these shall be specially agreed and paid for by the Purchaser.
- 11.2 The Purchaser shall inspect the supplies and services in detail within 7 days of receipt for material and functional suitability and for deviations in quantity outside the tolerances customary in the trade and shall notify the Supplier of any defects without delay. The obligation to inspect and give notice of defects is not limited to externally visible defects. The notice of defects must be made in writing and contain a precise specification of the alleged defects; any evidence must be enclosed. If no corresponding notice of defect is given within the time limit for giving notice of defects, the products shall be deemed to be free of defects in all functions and the delivery shall be deemed to have been approved.
- 11.3 The Purchaser shall have no rights and claims in respect of defects of any kind in deliveries or services other than those expressly mentioned in this Clause 11 and in Clause 12 below (warranty, liability for defects).
- 11.4 Defects shall be notified to the Supplier by e-mail to the address qs@nachbur.ch
- 11.5 We cannot process notifications of defects from the purchaser without providing the delivery note number and the batch number (RM number) of the supplier's articles that are the subject of the complaint and must reject them.

12. Warranty, liability for defects

- 12.1 In principle, the statutory warranty provisions shall apply, subject to the following provisions.
- 12.2 All warranty claims of the Purchaser require a timely and formally valid notice of defects in accordance with Clause 11 (Inspection and notice of defects) and shall become statute-barred one year after the transfer of use and risk.
- 12.3 Warranted characteristics are only those which have been explicitly designated as such in the specifications and drawings.
- 12.4 Excluded from the Supplier's warranty and liability are damages which cannot be proven to have arisen as a result of poor materials, faulty design or defective workmanship, e.g. as a result of natural wear and tear, defective maintenance, transport, disregard of operating instructions, excessive stress, unsuitable operating materials, chemical or electrolytic influences, construction or assembly work not carried out by the Supplier, and as a result of other reasons for which the Supplier is not responsible. The Supplier does not provide any guarantee for products or semi-finished products supplied by third parties or for the conformity of the products with the public, association, and private law standards at the place of delivery or destination.
- 12.5 If the delivery proves to be defective and the Supplier becomes liable for warranty under the above-mentioned conditions, the Supplier shall in any case have the right, at its option, to make a replacement delivery or a subsequent delivery ex works (EXW, Incoterms 2020) within a reasonable period of time, to accept the reduced value of the delivery or to subsequently remedy the defects in the product. Any further claims of the Purchaser due to defective delivery, in particular damages, consequential damages, and rescission, are excluded. Likewise excluded is any substitute performance by third parties at the Supplier's expense.
- 12.6 A credit limit of CHF 250.00 shall apply to credit notes issued to the Purchaser for defective deliveries. The Supplier shall not issue credit notes for smaller amounts. For sustainability and cost reasons, we recommend that you do not return items with a low value < CHF 250.00 to the Supplier.
- 12.7 If the Supplier decides to remedy the defects notified to it, the Customer shall give it the opportunity to do so. Defective parts shall be returned to the Supplier - at the Supplier's request and only with the express consent of the Supplier - at the expense of the Customer in the condition in which they were delivered, if possible, in the original packaging.
- 12.8 The Purchaser shall have no further rights or claims in respect of defects in material, design or workmanship or the absence of warranted characteristics.
- 12.9 If a complaint by the Purchaser is rejected, the Supplier may charge a compensation fee of CHF 150.00 shall be charged.
- 12.10 Rust resistance of rusting components / assemblies is normally guaranteed for a maximum of three months.

13. Exclusion of further liability of the supplier

- 13.1 Unless a different liability provision has been agreed elsewhere in this clause, the Supplier shall only be liable as follows to compensate the Purchaser for damage incurred directly because of a defective delivery or for any other reasons attributable to the Supplier:
- a) The obligation to pay damages shall in principle only apply if the Supplier is at fault for the damage caused by it.
- b) The obligation to pay compensation shall be excluded if the Purchaser, for its part, has effectively limited or could have limited its liability towards its customers but has failed to do so. The Purchaser shall be obliged to agree limitations of liability vis-à-vis third parties to the legally permissible extent also in favor of the Supplier.
- c) Claims of the Purchaser shall be excluded to the extent that the damage is attributable to violations of operating, maintenance, and installation instructions attributable to the Purchaser, unsuitable or improper use, faulty or negligent handling, natural wear and tear or faulty repair.
- d) The Supplier shall only be liable for measures taken by the Purchaser to avert damage (e.g., recall action) insofar as it is legally obliged to do so.
- e) The Purchaser shall inform and consult the Supplier immediately and comprehensively if it wishes to make a claim against the Supplier. It shall give the Supplier the opportunity to investigate the case of damage.
- The principles set out here shall be applied accordingly insofar as no insurance or insufficient insurance exists. The Supplier's product liability is excluded to the extent permitted by law.

- 13.2 All cases of breach of contract and their legal consequences as well as claims of the customer, irrespective of the legal grounds on which they are based, are conclusively regulated in these terms and conditions. All claims for damages, reduction, cancellation of the contract or withdrawal from the contract that are not expressly mentioned are excluded. Under no circumstances shall the Purchaser be entitled to claim compensation for damage which has not occurred to the delivery item itself, such as loss of production, loss of use, loss of orders, loss of profit or other direct or indirect damage.

14. Retention of title

- 14.1 The products delivered by the Supplier shall remain its property until they have been paid for in full. The Supplier shall be entitled to take back the products and the Customer shall be obliged to surrender them. The Supplier's ownership shall not be lost even in respect of products processed or resold by the Purchaser; co-ownership of the new item shall be acquired to the value of the outstanding invoice amount. The Purchaser shall keep the co-ownership for the Supplier. The Purchaser shall adequately insure and maintain the products at its own expense until they have been paid for in full. The Purchaser shall also take all measures to ensure that the Supplier's title is neither impaired nor cancelled.
- 14.2 Upon conclusion of the contract, the Purchaser shall in any case assign its claims arising from a resale to the Supplier. The Purchaser shall be authorized to collect these claims after their assignment. The Supplier's right to collect the claims itself shall remain unaffected; however, it undertakes not to collect the claims as long as the Purchaser duly meets its payment obligations and is not in default of payment. If this is the case, however, the Supplier may demand that the Customer discloses the assigned claims and their debtors, provides all information necessary for collection, hands over the relevant documents and informs the debtors (third parties) of the assignment.
- 14.3 The Customer is obliged to cooperate in measures required to protect the Supplier's property. Upon conclusion of the contract, the Customer shall give the Supplier its consent to the entry of the retention of title in the retention of title register.
- 14.4 The Customer may neither pledge the delivered products nor assign them as security. In the event of seizure, attachment, or other dispositions by third parties, the Customer shall notify the Supplier without delay and provide it with all information and documents necessary to protect its rights. Enforcement officers or third parties must be informed of the Supplier's ownership.

15. Property and Intellectual Property Rights

- 15.1 All documents and samples submitted with the offer remain the property of the Supplier. Third parties may not be granted access to the tender documents without the Supplier's consent.
- 15.2 The supplier reserves the property and intellectual property rights to drawings, calculations, and other documents. This shall also apply to such written documents which are designated as "confidential". The Purchaser shall require the express written consent of the Supplier before passing them on to third parties.
- 15.3 The contracting parties are obliged to inform each other without delay of any infringement risks and alleged infringements that become known and to give each other the opportunity to counteract any such claims. The principles of limitation of liability shall be applied accordingly.

16. Tools

Tools and equipment remain the exclusive property of the supplier. Any tooling costs incurred because of changes to drawings shall be borne exclusively by the Purchaser. If no new order is placed within 5 years, tools and equipment may be destroyed.

17. Information and clarification obligations

The contracting parties shall inform each other in good time of any special technical requirements of the order as well as of any legal, official, and other regulations at the place of destination, insofar as they are of importance for the execution and use of the products. Furthermore, the contracting parties shall inform each other in good time of any obstacles which may call into question the fulfilment of the contract, or which may lead to inappropriate solutions.

18. Confidentiality, secrecy

- 18.1 The contracting parties undertake to treat as business secrets all commercial and technical information which is not in the public domain and of which they become aware through the business relationship. Subcontractors or other third parties shall be bound accordingly. The business relationship and its contents shall be kept secret from third parties.
- 18.2 Drawings, models, templates, samples, and similar items may not be handed over or otherwise made accessible to unauthorized third parties. The reproduction of such items is only permitted within the scope of operational requirements and copyright provisions.

19. Changes to the General Terms and Conditions of Sale and Delivery

The General Terms and Conditions of Sale and Delivery shall apply in the version valid at the time of conclusion of the contract. Subsequent amendments or supplements to these General Terms and Conditions of Sale and Delivery shall become part of the contract if the customer does not object to the amended provisions within 30 days of becoming aware of them.

20. Data protection

- 20.1 The Supplier shall always comply with the relevant provisions on data protection. It processes and transmits information and personal data of the Customer for the processing of the order, enquiry, etc., as well as the processing of the contract (e.g. delivery, processing of payments, etc.), for the analysis of the use of the homepage by the Customer, for the performance of a risk assessment by third-party companies, for customer support, for product development and maintenance, for market research as well as to inform the Customer about our products and services by telecommunication (e.g. by e-mail, without encryption) or otherwise (e.g. by letter post) (advertising purposes). For information or to object to data processing, please contact the following office: personal@nachbur.ch

21. Jurisdiction and applicable law

- 21.1 The contracting parties shall first attempt to settle any disputes amicably between themselves.
- 21.2 The exclusive place of jurisdiction for the Purchaser shall be the **Supplier's registered office** (currently Holderbank). However, the Supplier shall also be entitled to bring an action against the Purchaser at the latter's registered office or at any other ordinary place of jurisdiction.
- 21.3 The legal relationship shall be governed exclusively by **Swiss substantive law** to the exclusion of the provisions of private international law (only Art. 116 IPRG, which explicitly permits an express choice of law such as the present one, shall not be affected by this exclusion) and to the exclusion of the Vienna Sales Convention CISG.
- 21.4 The General Terms and Conditions of Sale and Delivery are available in German and English. The German version shall prevail.

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