

1. Applicability

- 1.1 These General Conditions of Purchase shall, in its most current version, apply to all orders placed by SMS Concast AG, Zurich (hereinafter "SMS Concast") and shall apply exclusively and notwithstanding any other general terms and conditions of sale of the Supplier, whether or not referred to in its offer and/or purchase order confirmation, even if SMS Concast has not expressly disagreed with such other terms and conditions and even if a purchase order contains addenda or statements that are worded differently or provided for further conditions.
- 1.2 Any and all orders placed by SMS Concast shall be valid only if so made in writing in the form of a Contract or purchase order signed by SMS Concast. Such Contract and/or purchase order are hereinafter jointly referred to as "Order". The content of the Order shall prevail over the offer of the Supplier.
- 1.3 These General Conditions shall form an integral part of the Order.

2. Scope of Supplies

- 2.1 The supplies to be delivered and/or the services to be rendered by the Supplier under the Order (hereinafter collectively referred to as "Scope of Supplies") must correspond to what is specified in the Order and be of the latest state of art. The equipment supplied under the Order as part of the Scope of Supplies shall comply with all applicable environmental laws and regulations as well as with all norms and standards governing in the country where it is supposed to be operated. The Supplier shall hold SMS Concast free and harmless against any and all claims, demands and/or other actions by third parties and/or public authorities arising from a violation by the Supplier of any such laws, regulations, norms and/or standards.
- 2.2 If a deviation from a certain regulation, norm and/or standard is technically unavoidable, Supplier will have to obtain the written consent of SMS Concast to such deviation in advance. Supplier's liability for any consequences of such deviation remains unaffected by such consent.
- 2.3 The necessary operating instructions and directions will be supplied with the Scope of Supplies in English, unless another language is expressly specified in the Order. This applies even in the case of proprietary articles of deliveries made through sub suppliers of the Supplier. These documents have to be in accordance with the instructions as provided in the Order and/or the shipping instructions and supplied to SMS Concast.
- 2.4 The Supplier is obliged to take the latest precautions which are necessary in the interest of environmental protection and accident prevention and to comply with all official and legal requirements in the country of destination of the Scope of Supplies.

3. Alterations

- 3.1 SMS Concast reserves the right to ask for alterations of the Scope of Supplies. The acceptance of any such alterations is to be confirmed by the Supplier in writing.
- 3.2 SMS Concast and the Supplier are entitled to an adjustment of the Order Price by the cost incurred more or less by the Supplier due to such alteration.
- 3.3 Increases and/or reductions of the Order Price being the result of such alterations are to be specified in writing and in addition have to be agreed upon in writing.
- 3.4 Requests for an increase of the Order Price due to alterations shall be notified by the Supplier to SMS Concast in writing within one month from the acceptance of the alteration only. After the expiration of such one month, the alteration is deemed to not cause any additional cost to the Supplier.

4. Prices and Payment Conditions

- 4.1 The prices agreed in the Order (herein referred to as "Order Price") are firm unless otherwise stated in the Order.
- 4.2 If a total weight of the equipment and/or a number of man-days of services is agreed and/or specified in the Order and if there is a variation up- or downwards of more than 3% of the agreed total weight and/or numbers of man-days, the Order Price shall be adjusted in an amount equivalent to the kg / man-days beyond (up- or downwards) such 3% times the price agreed in the order per kg and/or per man-day.
- 4.3 Any changes to the Order Price must be accepted by SMS Concast in writing.
- 4.4 Along with its invoice, the Supplier shall forward to SMS Concast all documents defined in the Order as required for the coming due of the respective payment under the Order as well as any other information and/or documents notified by SMS Concast in writing as required for the invoicing and receipt by SMS Concast of the payments related to the performance of Scope of Supplies under SMS Concast's contract with the End-Customer (hereinafter referred to as "Contract").
- 4.5 Unless otherwise stated in the Order, all payments to be made by SMS Concast to the Supplier are due 60 days after receipt by SMS Concast of all the documents as referred to in Article 4.4 above.
- 4.6 Payment for any part of the Order Price shall not be deemed as acceptance of any part of the Scope of Supplies.
- 4.7 All taxes, export duties, fees, banking charges and/or charges levied on the Supplier in connection with the Order shall be borne and paid by the Supplier.

5. Delivery

- 5.1 The Supplier shall notify SMS Concast immediately in writing if any delivery or performance of the Scope of Supplies is delayed or likely to be delayed beyond the respective date for such delivery and/or performance as per the Order. The notification shall include Supplier's proposal for acceleration of the progress to achieve the delivery date(s) or, as applicable, the date of completion of the Scope of Supplies on time. SMS Concast may require that the accelerated delivery includes airfreight.
- 5.2 In case the delivery is delayed due to the Supplier's fault he is obliged to pay SMS Concast liquidated damages for late delivery of 1% per each week of

delay up to a maximum of 10% of the total Order value if not otherwise stated in the Order.

- 5.3 Payment of liquidated damages for late delivery does not relieve the Supplier from its obligation to complete the delivery and/or performance of the Scope of Supplies according to the terms of the Order.
- 5.4 In case the Supplier does not deliver the Scope of Supplies even within an agreed extension period, SMS Concast is entitled, to immediately rescind from the Order and, inter alia, to claim from the Supplier any actual damage suffered by SMS Concast in excess of the amount of liquidated damages due for the delay in delivery. Such damage shall also include, but not be limited to the additional cost of procuring the Scope of Supplies from another supplier and/or any liability of SMS Concast under the Contract due to and/or in connection with SMS Concast's delay in providing the Scope of Supplies to the End-Customer.

6. Progress Reports

- 6.1 The Supplier shall submit a progress report (bar chart diagram) showing the status of material procurement and production. Such report shall be sent to SMS Concast by e-mail on the 20th of each month.
- 6.2 The report shall record the progress of the Scope of Supplies up to the date on which the above mentioned report is issued and confirm that the Scope of Supplies is proceeding in line with the Contract Schedule. Supplier shall give a detailed explanation for the delay and advise the corrective action proposed to retrieve the original Schedule. Additionally a date for expected retrieval of the original Schedule shall be given in the case of each delay.

7. Inspection and Testing

- 7.1 SMS Concast and any third party authorised by SMS Concast shall be entitled to inspect and test the Scope of Supplies or portions thereof at any reasonable time to assess the quality of the Scope of Supplies and its conformity with the Order.
- 7.2 The Supplier shall give at least ten (10) working days' advance written notice of scheduled tests and SMS Concast and any third party authorised by SMS Concast shall be entitled to attend the tests. The Supplier shall provide SMS Concast with such test certificates and other test documentation as SMS Concast may reasonably require.
- 7.3 No portion of the Scope of Supplies shall be dispatched without an inspection and release by SMS Concast, unless SMS Concast waives such inspection and release. If the Order includes the carrying out of tests on the Scope of Supplies after their receipt by SMS Concast, then the Scope of Supplies shall not be deemed complete until such tests have been passed as confirmed by SMS Concast.
- 7.4 Inspection and testing in accordance with this clause shall not relieve the Supplier from any liability nor imply SMS Concast's acceptance of the Scope of Supplies or any part thereof.
- 7.5 Supplier shall provide the necessary human resources, infrastructure and tools to execute the inspection and tests at his cost. All such costs for the inspection, with the exception of expenses for SMS Concast's personnel, are to the account of the Supplier.

8. Rejection

- 8.1 If after inspecting, examining or testing any portion of the Scope of Supply SMS Concast shall decide that such portion of the Scope of Supplies is defective or not in accordance with the Order, SMS Concast may reject the said portion by giving to Supplier, within a reasonable time, notice in writing of such rejection stating therein the reasons upon which the said decision is based. SMS Concast shall be entitled to return to the Supplier any portion of the Scope of Supplies not accepted at the Supplier's risk and sole expense.
- 8.2 Following any such rejection Supplier shall remedy or replace the rejected Scope of Supply or part thereof and resubmit the same for examination, testing or inspection and all expenses reasonably incurred by SMS Concast and/or the End-Customer in attending or in consequence of such examination, re-testing or inspection shall be borne by the Supplier.

9. Services

In case the Scope of Supplies also comprises services (hereinafter referred to as "Services"), the Supplier shall make available it service personnel at the time and place agreed in the Order. Solely the Supplier shall be responsible for arranging in due time and for maintaining during the entire duration of the Services any and all visa-requirements in respect of the country where the place of performing the Services is located as well as for the payment of any and all taxes in respect of the performance of the Services.

10. Supplier's liability

- 10.1 The Supplier shall be liable towards SMS Concast for any act and/or omission in the context of the Supplier's performance of the Order to the same extent SMS Concast is liable under the Contract.
- 10.2 The Supplier shall fully indemnify SMS Concast against any claim by the End-Customer and/or by any other third party lodged as a result of and/or in connection with the performance and/or non-performance of the Order and to compensate SMS Concast for any and all cost and/or expenses incurred therefor and/or for any damages or losses suffered therefrom.
- 10.3 In case any technical documents (related to engineering, manuals and/or any other aspect) are incorrect and/or incomplete, the Supplier shall correct such incorrectness and/or incompleteness and re-submit the corrected document(s) at no cost to SMS Concast and indemnify SMS Concast against any other cost incurred and/or damages suffered (due to the resupply or re-performance of any equipment or other work procured, supplied or performed by SMS Concast and/or due to any liability of SMS Concast to the End-Customer under the Contract.

11. Intellectual Property Rights

- 11.1 The copyrights for all documents such as drawings, sketches or calculations etc., handed over to the Supplier by or on behalf of SMS Concast, remain with SMS Concast AG. The Supplier shall use such documents and any other information solely for the purpose of fulfilling the Order. Without SMS Concast AG's prior written consent, the Supplier shall not manufacture goods based on such documents or information for third parties, or copy or reproduce in any way such documents or information or disclose them to third parties, other than those entrusted by the Supplier with the execution of the Order.
- 11.2 All documents are to be returned by the Supplier to SMS Concast AG in total, after execution of the Order without specific demand, together with any models and patterns.
- 11.3 The Supplier has to expressly bind its employees and/or sub suppliers to confidentiality obligations and duties for the return of documents not less stringent than the ones set out herein.
- 11.4 The Supplier is responsible for ensuring that the supply of the Scope of Supplies as well as the use thereof by the End-Customer does not infringe any intellectual property rights of any third party. The Supplier shall indemnify SMS Concast against any and all claims arising from such an infringement.
- 11.5 SMS Concast shall notify the Supplier without delay after becoming aware of any of such claim.

12. Subcontracting

- 12.1 For the purpose of performing the Order, the Supplier shall not engage any sub-supplier without having obtained the prior written consent of SMS Concast. Such consent will not be required for the purchase of raw materials (if not agreed otherwise in the Order), minor parts of the Work and minor engineering services, which are not manufactured or furnished by Supplier.
- 12.2 Notwithstanding SMS Concast's or the End-Customer's approval of any Sub-supplier, Supplier shall remain fully responsible and liable for any act or omission by its Sub-suppliers, their employees, or agents. Supplier warrants that all information and data delivered to SMS Concast are correct including those of the Sub-suppliers.
- 12.3 Any participation, if any, of SMS Concast or the End-Customer in construction, planning or designing of the Scope of Supplies, in selecting materials as well as any review or approval of Supplier's documents by SMS Concast or the End-Customer shall not release the Supplier from any responsibility for the due and timely performance of the Scope of Supplies.

13. Communication

- 13.1 The Supplier shall refrain from communicating directly with the End-Customer unless so instructed by SMS Concast in writing.
- 13.2 The Supplier shall refrain from releasing any publication concerning this Order without SMS Concast's prior written consent.

14. Insurance

- 14.1 Supplier shall take out coverage as would be taken out by a reasonably prudent supplier, undertaking work similar to the Scope of Supplies and in any case as is required by law.
- 14.2 Except as otherwise stipulated in the Order, the Supplier shall insure the Scope of Supplies in the joint names of Supplier and SMS Concast to its full replacement value,
- (a) from the date of execution of the Order until the Risk Transfer Date against any loss or damage; and
- (b) during the Warranty Period against any loss or damage which is caused by Supplier in completing any outstanding work.
- 14.3 Supplier shall further insure against liability to third parties for any death or personal injury and loss of or damage to any physical property arising out of the performance of the Scope of Supplies. The insurance shall be for not less than the amount of EURO two (2) million. If the Supplier fails to produce evidence of insurance cover, SMS Concast may effect and keep in force such insurance. Premiums paid by SMS Concast for this purpose shall be deducted from the Order Price.

15. Force Majeure

- 15.1 As used in this Order, a "Force Majeure Event" shall mean any reasonably unforeseeable event that prevents the affected Party from performing its obligations under this Order if such event is beyond the reasonable control of and not the fault of the affected Party and such Party has been unable to avoid such event by the exercise of prudent foresight and due diligence. The following events shall not be considered to be "Force Majeure Events"
- (a) delayed delivery or non-delivery by Supplier's sub-supplier(s);
- (b) supplier has not received the required export license in time;
- (c) the non-availability of any means of transportation;
- (d) any act of governmental authority in accordance with applicable law.
- 15.2 The presence of Force Majeure events shall be confirmed by evidence of the competent authorities of the country where events have occurred.
- 15.3 In the event of Force Majeure neither party shall be responsible or liable for the non-fulfilment of one or more of its respective obligations under the Order. However, in case an event of Force Majeure causes a delay in fulfilling one or more of such obligations under the Order by more than 4 weeks, SMS Concast has the right, to immediately terminate the Order. In such a case, SMS Concast shall be entitled to finally retain any parts of the Scope of Supplies already delivered and/or performed by the Supplier prior to the termination against payment of a part of the Order price proportionate to value of such parts (hereinafter referred to as "Termination Value"). Any amount paid by SMS Concast to the Supplier in excess of the Termination Value shall be immediately returned by the Supplier. Beyond these entitlements, neither party has the right to claim any damage.

16. Suspension

SMS Concast shall be entitled to suspend the performance of the Order if and when:

- (a) the End-Customer rightfully suspends the Contract without fault of SMS Concast and/or the Supplier; or
- (b) SMS Concast is entitled to suspend the Contract in accordance with the Contract; or
- (c) The Supplier has failed to fulfil any of its obligations as per the Order.

17. Termination

- 17.1 SMS Concast may terminate the Order at any time. Upon termination (other than due to Supplier's default), SMS Concast shall pay to the Supplier an amount equivalent to all costs verified to be incurred by the Supplier up to the date of termination in performing the Scope of Supplies. In no event shall the amount paid to the Supplier pursuant to this sub-clause exceed the Order Price.
- 17.2 SMS Concast may terminate the Order for cause if and when the Supplier has failed to fulfil any of its obligations as per the Order even within an additional, reasonable grace period set by SMS Concast. In such case of termination, SMS Concast shall, in addition to any and all rights which SMS Concast might have under the applicable law, be entitled to complete the Scope of Supplies through a third party at the cost and risk of the Supplier.
- 17.4 In case of any termination, Supplier shall hand over any Documents or information and provide any assistance, which SMS Concast needs to complete the Scope of Supplies.

18. Acceptance of Scope of Supplies

Acceptance of the Scope of Supplies by SMS Concast shall occur when all of the following have been fulfilled

- (a) Scope of Supply has successfully passed all tests as per the Order and/or the Contract; and
- (b) Supplier has delivered all Documents as per the Order and/or the Contract; and
- (c) Supplier has fulfilled all other obligations under the Order and Supplier as per the Order;

and be subject to a written confirmation / certification by SMS Concast.

19. Insolvency

In the event Supplier is likely to become insolvent (e.g. suspends payments, applies for insolvency proceedings to avert bankruptcy or becomes bankrupt), the Supplier shall provide adequate financial security for its fulfilment of the Order within reasonable time, failing which SMS Concast may, without prejudice to any other rights and remedies under the applicable law, terminate the Order in whole or in part. In any such case the Supplier shall, if requested by SMS Concast, hand over to SMS Concast all parts of the Scope of Supplies entirely or partly manufactured and the price to be paid by SMS Concast for such parts, material and drawings etc. shall be determined based on the prices specified in the Order minus any reasonable additional cost incurred by SMS Concast in completing the Scope of Supplies.

20. Warranty

- 20.1 The Supplier warrants for a period of two years from the acceptance of the Scope of Supplies ("Warranty Period") that any part thereof is in full accordance with the Order, fully performs to the quality guaranteed, and is free from any other defect in design, material and workmanship which would adversely affect its use or operation.
- 20.2 In case any part of the Scope of Supplies is defective or becomes defective during the Warranty Period, the Supplier shall, without prejudice to any other rights of SMS Concast and at its discretion and at the Supplier's cost and risk, either require repair or replace the defective part within reasonable time, failing which, SMS Concast is entitled to repair the defect itself at Supplier's expense, to withdraw from the Order, reduce the Order Price and/or claim damages.
- 20.3 SMS Concast shall be entitled to set off the costs of remedying the defects against the Order Price and/or any other money due payable to the Supplier.
- 20.4 The warranties and warranty period in respect of any replacement or repair work shall be identical to what is set out above in this Article 20.

21. Code of Conduct

The Supplier is obliged to follow in each case the applicable laws. The Supplier will in no case take part in particular, neither actively or passively, directly or indirectly in any form of corruption. If the Supplier offends against this obligation, SMS Concast is entitled regardless of other claims to discontinue the Order or to withdraw from it.

22. Jurisdiction and Applicable Law

- 22.1 This Order is governed by Swiss substantive law with the exception of the "UN Convention on the International Sale of Goods" (CISG).
- 22.2 Exclusive place of jurisdiction for both parties over any matters arising from the Order shall be Zurich, Switzerland. However, the Supplier may also be sued in all cases at the court of his domicile.

23. Miscellaneous

- 23.1 In case any of the provisions contained in the Order is invalid or unenforceable, all other provisions shall remain valid.
- 23.2 The terms and conditions stipulated in the Order constitute the entire agreement between the Parties and shall supersede all previous communications and agreements with respect to subject matter thereof. Any changes to the Order shall be made in writing.