

1 Applicability

- 1.1 Nozag's present General Conditions of Sale, Delivery and Payment (hereinafter referred to as: General Conditions) shall apply to all situations where Nozag is delivering goods upon having brought its General Conditions to Clients' knowledge prior to the conclusion of any agreement with them, be it in the form of a catalog/documentation, within the framework of the bidding procedure, at the occasion of the order confirmation or handed over with the delivery slip, or through their reading of Nozag's website. Should there be several conflicting versions, the most recent version of such General Conditions shall prevail over all other texts.
- 1.2 All specific agreements or commitments entered into by Nozag related to a concrete matter, whether in a bid, in an order confirmation or drafted on a delivery slip, that would diverge from the present General Conditions shall take precedence over such specific agreements or commitments.
- 1.3 In a case of 'battle of the forms', meaning where the present General Conditions contradict those of Clients, Nozag's shall take precedence over those of Clients', even absent express stipulations to such end. The present General Conditions govern all Nozag's services rendered, goods manufactured and delivered and consultancy (hereafter referred to as "Performance") towards its Clients, up to the date of publication of a new version.

2 Agreement's Offers, Conclusion and Content

- 2.1 The content of all Nozag's catalogues and documentation, meaning the prices, the sizes, the models, the weights and the technical characteristics herein mentioned, are not binding. Nozag hereby expressly reserves its right to amend any such information at any time. Any technical amendment can be made even after the conclusion of an agreement as long as they do not impede the proper use of contracted products pursuant to such agreement.
- 2.2 Nozag is solely committed by its written offers. And such commitment is binding during a maximum of 90 days, except if agreed differently in writing. Offers transmitted by telefax or by email are as binding as the ones remitted by post. Nozag's verbal offers are not binding and are subject to all reservations. Except in the case where Nozag had previously made a written offer, a Clients' order, whether verbal or written, or even presented under a different form (i.e.: email or on the web) shall be binding towards Nozag. Where no price is mentioned, Nozag has the right to determine them (in accordance with the prices applicable at the given time). Nozag is entirely justified in accepting such an offer within the three subsequent weeks, either through the means of an order confirmation, or by delivering the ordered contractual products. In the latter case, the contract is entered into upon delivery (Performance).
- 2.3 In cases of special manufactures, Clients are bound to accept the delivery of a product with a variance of up to 10% in the quality/quantity volume as originally agreed upon and to pay the entire price in spite of the above mentioned variance.
- 2.4 Nozag's minimum price per delivery is CHF 50.- free from deductions. In case of a delivery to Clients for a price lower than CHF 50.- free from deductions, such amount (in words: fifty Swiss francs free from deductions) must still be paid at the next delivery.

3 Clients' Deed of Assignment

Clients may not validly assign to third parties its credits towards Nozag without the latter having previously granted its express written authorization.

4 Prices

- 4.1 All prices are to be understood free from deductions and in Swiss francs (CHF), all VAT excluded, pursuant to the hereunder mentioned (see Headline 6 below) delivery conditions, that is to say completely and without any deduction, both packaging and transportation costs excluded.

5 Terms of Payment

- 5.1 Nozag's invoices are due for payment within 30 days (current liabilities) following the date of their issuance, meaning without deduction and without exercising any clearing rights. This stipulation remains valid even in case of a delay in the delivery of the goods, as well as in cases where Clients are entitled to remedies for warranties. Nozag herein expressly reserves the right to demand advanced payments for important orders as well as for special manufactures. Clients are automatically in default as soon as they fail to perform any of their payment obligations (day of maturity). Default interest of 8% p.a. shall be due. Moreover, Nozag may in such a case claim immediate payment (bringing forward the maturity date) of all of its other monetary claims towards Clients though a mere declaration of default, whether by postal letter, by telefax or by email, to demand securities for its monetary claims, to withhold due deliveries and to subject oncoming deliveries to advance payments.
- 5.2 Should Clients be delaying their payments, Nozag has the right to take back all products supplied based upon the given contract. In such a case, Clients shall grant Nozag access to all such products. Such situation shall not amount to the cancellation of the contract, except if Nozag were to notify such by post, by telefax or by email. In both cases, Nozag shall be entitled to claim proper remedy for all damages incurred.
- 5.3 Nozag maintains its title of ownership to all supplied contractual products until full payment of their purchasing price, and once all other possible payment conditions are met (retention of title). Clients hereby grant to Nozag formal authorization to register all retentions of title of ownership with the Official Register and to proceed to all related undertakings as soon as the contract is entered into, all this at Clients' costs. Should Clients sell the products before having paid for them, they must ensure they obtain the same rights of retention of title of ownership from the new owner. Should Clients be threatened with bankruptcy, they must immediately inform Nozag thereof and set aside all contractual products that are covered by such a retention right. Clients shall contract all necessary fire, water and theft insurance policies at their own costs.

6 Supply Conditions

- 6.1 Parties hereby agree that, except for the special stipulations below, all Nozag's supplies to the Clients are performed under the terms EXW ex Works of Pfäffikon ZH (INCOTERMS 2000).
- 6.2 The place of performance legally binding Nozag towards Clients is Pfäffikon ZH. Clients hereby grant their express authorization to Nozag to contract in their name and at their costs the shipment of the contractual products. Nozag bears no liability for the choice of the carrier. Nozag shall contract a transportation insurance coverage only in cases where Clients request such in writing.
- 6.3 Clients shall bear all incidental costs such as packaging appropriate for transportation, dues, custom rights and taxes levied on the supply.
- 6.4 All profits and risks pass over to Clients at the time the contractual products are concretely remitted to them, or at the date when Nozag is ready for their shipment, even if another location is planned to host the shipment or even if the shipment is to be made carriage paid.
- 6.5 Contractual products are in conformity with all Swiss regulations, whether security related or otherwise. Should the goods be shipped abroad, Clients must draw Nozag's attention to all possible different foreign rules and regulations. Nozag may consequently conduct all necessary adaptation work at Clients' costs.

- 6.6 Delivery deadlines promised in writing by Nozag in its confirmation of order, or thereafter, are the only ones that shall apply. They are prolonged from the necessary period of time, should Clients amend the order, fail to remit all necessary information, not satisfy all administrative obligations or should impediments arise beyond Nozag's control, such as for example strikes, delays in the supply of goods by Nozag's suppliers, or in a case of Force Majeure. Nozag shall keep Clients informed about any delay in comparison with either the deadlines agreed upon in writing, or the deadlines that have been reasonably prolonged. Clients are entitled to fix a new reasonable deadline. Should that new deadline not be met by Nozag, then Clients are entitled to cancel the contract within five days (date of the postal stamp). Thereafter, Clients are prevented from claiming any other right in case of lack of supply or delayed supply. That liability exclusion does not apply in cases of Nozag's fraud or serious misconduct, but does apply in cases of fraud or serious misconduct of Nozag's agents.

7 Supplies' Receipt and Check

- 7.1 Clients are bound to immediately check (check deadline) the contractual products right upon their arrival and to notify in writing all the visible defects, at the latest within a deadline of 8 days (date of the postal stamp) following the arrival of the contractual products (complaint deadline, so that Nozag has the necessary time to notify, if need be, such a complaint to its suppliers. Should Clients fail to notify such, the contractual products are deemed to be received without reservation. Hidden defects are notified right upon their discovery.
- 7.2 Damages to packages and loss of contractual products are notified in writing to carrier upon receipt of the contractual products.

8 Warranty, Liability for Non-Compliance

- 8.1 Warranty rights are statute barred if no suit is filed thereon within twelve months following the date of delivery. Such warranty deadlines shall start to run in all cases, meaning even including deliveries outside of the works of Pfäffikon ZH, upon the putting of the contractual products at Clients' disposal at the works of Pfäffikon ZH, or at the date they are ready for shipment.
- 8.2 Warranty deadlines start anew from day one for contractual products which are replaced or repaired. Nevertheless, they are limited to a maximum of three months (forfeiture deadline) upon the elapsing of the initial warranty deadlines.
- 8.3 The warranty covers the total content of the contracted performance. Solely the performances that are expressly described as such ("commitment" or "specific performance") in the offer, the order confirmation, the delivery slip or any other specification shall be deemed promised. Except for what has just been mentioned, the other liability conditions (checking and claim deadlines, consequences of the forfeiture deadlines, etc.) regarding the promised features are subject to the same stipulations as the warranty.
- 8.4 Should the warranty cover a product that Nozag acquired from a third party, the only rights of Clients are to demand from Nozag to claim all warranty rights pursuant to the law or the contractual conditions to the benefit of the third party concerned (General Conditions). Should the third party fail to honor its warranty obligation, then Nozag shall assign to Clients its warranty rights in order for Clients to claim them directly against the third party. In spite of such principles, all warranty obligations to be fulfilled by Nozag and by its agents are limited to the minimum performance as the law allows.
- 8.5 Nozag is bound by warranty obligations for design defects as well as for any non-compliance of contractual products and their parts, for which it shall be established within the warranty period that they have been manufactured from an unsuitable material or that they have a manufacturing defect. Nozag shall decide either to repair or to replace, at no cost to Clients, the contractual defective product or part. Nozag's expenses for such repair or replacement supply shall in no case exceed the value of the total original delivery, calculated at the date of such delivery. All contractual products that are replaced fall into Nozag's title of ownership. The contractual products that need to be replaced shall be shipped to Nozag at Clients' costs (passing of all risks at Pfäffikon ZH).
- 8.6 Should a contractual product be set-up based upon Clients' information, drawings or models, Nozag's warranty obligations are limited to the proper execution of products in accordance with Clients' indications, except for their feasibility and functionality; Clients shall hold Nozag entirely harmless against all possible breaches of law regarding the manufacture and shipping of such contractual products.

9 Liability Exclusion in Case of Shipping Mistakes caused by Verbal or Telephone Order

Clients' rights in case of a delivery mistake following an order carried through verbally or by telephone are only covered to the extent allowed by law.

10 Exclusion of Other Warranty Rights and of Other Claims

- 10.1 The following are excluded from the warranty: all damages caused by normal wear and tear, by handling errors, by extreme use, etc. Warranty obligations and product liability end where Clients or a third party (one or the other) carries out, without Nozag's written authorization, amendments or repairs to contractual products, do not immediately undertake all necessary measures to mitigate the damage, refrain from returning or else sell to third parties the contractual products that are involved in a claim.
- 10.2 All cases of breach of contract and their consequences, as well as all Clients' rights towards Nozag based upon whatever legal ground, including those emanating from an illegal action or an error, are entirely governed by the present General Conditions. Particularly excluded are all Clients' claims that are not expressly mentioned such as price rebates, the remedy of direct and indirect damages, the suspension of the contract or its cancellation, as well as claims based upon incomprehensive advice or upon the breach of other auxiliary obligations.
- 10.3 The above mentioned exclusion of warranty and of liability does not apply to breaches of contract that cause damages to persons, to cases of Nozag's fraud or serious misconduct, but it does apply to cases of fraud and serious misconduct of Nozag's agents.

11 Confidentiality

- 11.1 Drafts, drawings and all other informational documentation and instructions remitted to Clients in the scope of the herewith addressed business relationship are secret and confidential and neither shall be disclosed to third parties, nor used for any purpose other than for contract execution. Upon Nozag's request, all documents, instructions and copies thereof are returned to Nozag or destroyed as instructed by Nozag. Clients grant to Nozag all necessary assistance for enabling the latter to investigate and verify that such contractual obligation has been complied with.

12 Jurisdiction and Governing Law

- 12.1 Both Parties expressly agree that the proper jurisdiction to determine upon any dispute relevant to the present General Conditions is exclusively at Nozag's principal place of business. Nevertheless, Nozag hereby reserves the right to sue Clients before the courts of their domicile or those of their principal place of business.
- 12.2 The contract and the legal relationships between the parties, including those that do not directly relate to the contract, are governed by material Swiss law, at the exclusion of the United Nations' Convention on the International Sale of Goods dated April 11, 1980 ("Vienna Convention").

Established January 2010