

1. General

- 1.1 Unless otherwise expressly agreed in writing, the following Terms of Sale and Delivery apply to the business transactions between Coperion K-Tron (Switzerland) LLC, CH-Niederlenz, hereinafter referred to as *Supplier* and the *Customer*. Any conditions stipulated by the *Customer* which are in contradiction to these general conditions of supply shall only be valid if expressly acknowledged by the *Supplier* in writing.
- 1.2 Differing or supplementary agreements to these Terms of Sale and Delivery are only valid if expressly accepted in writing by the *Supplier*.
- 1.3 Quotations which do not specify a final date for acceptance are without obligation. After the final date has passed, the *Supplier* reserves the right to accept or reject an order.
- 1.4 Should a provision of these general conditions of sale prove to be wholly or partly invalid, the parties to the contract shall jointly seek an arrangement having a legal and economic effect which will be as similar as possible to the invalid provision.

2. Purchase Orders, Order Confirmation

- 2.1 Purchase orders will normally be confirmed in writing by the *Supplier*. The scope of the goods and service is defined exclusively by the wording of the written confirmation of order.
- 2.2 Changes to the order and verbal agreements are only valid if the *Supplier* confirms the same in writing to the *Customer*.
- 2.3 The *Supplier* is entitled to undertake modifications which lead to improvements at any time, provided that these do not affect the warranted performance characteristics or result in an increase in price.

3. Standards, Regulations

- 3.1 In the absence of a written agreement to the contrary, the delivery conforms to the standards and regulations in application and used by the manufacturer at the time of issuing the quotation.
- 3.2 The devices are designed and constructed subject to compliance with the basic health and safety regulations of the relevant directives of the European Union. The CE marking and the issue of the manufacturer's declaration and declaration of conformity takes place in accordance with the applicable guidelines.

4. Prices

- 4.1 Prices are net, "ex works" Niederlenz excluding VAT without any deductions, however, including standard packaging for transportation by air, road or rail.
- 4.2 All ancillary costs, for example, sea freight packaging, preservation, freight charges, insurance, taxes, customs duties, fees for export, import and other approvals, deeds and test certificates, etc., are at the expense of the *Customer* in accordance with the applicable Incoterm.
- 4.3 The *Customer* is charged a minimum invoice amount of CHF 100.00 (small quantity surcharge) or the equivalent value in foreign currency.
- 4.4 The *Supplier* reserves the right to make a reasonable price adjustment if the delivery period as per 7.3 a) or b) was extended or modifications have been made to the model, because the documents supplied by the *Customer* did not correspond to the actual facts or were incomplete.

5. Terms of Payment

- 5.1 Payments must be made by the *Customer* in conformity with the agreed terms of payment at the *Supplier's* domicile without deduction of discount, expenses, taxes, duties, fees, customs duties and similar. In the absence of an agreement to the contrary, the price is to be paid in the following instalments: one third upon receipt of confirmation of order, two thirds upon readiness for delivery or acceptance.
- 5.2 Terms of payment and obligations to make payment must be adhered to even if acceptance, transport, delivery, assembly or commissioning of the delivery or services is delayed or rendered impossible for reasons for which the *Supplier* bears no responsibility or if non-essential parts are missing or if subsequent improvement proves necessary but which do not make it impossible to utilise the goods or services.
- 5.3 In the event of default in payment, the *Supplier* reserves the right immediately to cease all scheduled deliveries and services and is entitled to charge, from the agreed due date onwards, an interest rate of a minimum of 5% p.a.
- 5.4 If the *Customer* is in arrears of payment or if the *Supplier* has genuine cause to fear that payments by the *Customer* will not be received in full or in time, the *Supplier* is entitled to suspend further performance of the contract and to withhold deliveries and services. If the *Supplier* does not receive satisfactory securities within a reasonable period of time, he is entitled to withdraw from the contract and to claim compensation for damages and to repossess the goods delivered under the order at the *Customer's* expense.
- 5.5 Invoices will be issued on partial and/or advance shipments requested by the *Customer* and payments must be made in accordance to 5.1 (unless otherwise agreed by Coperion K-Tron).

6. Reservation of Title

- 6.1 Title to the delivery remains with the *Supplier* until all receivables have been paid in full. The *Customer* is obliged to cooperate in measures to protect title, in particular he empowers the *Supplier* to undertake the entry or priority notice of the reservation of title in public registers/books in accordance with the relevant national statutes and to comply with all formalities in this respect at the *Customer's* expense. The *Customer* is obliged to insure and to maintain the goods delivered for the duration of the reservation of title.

7. Delivery Date

- 7.1 The delivery period commences with acceptance and confirmation of the purchase order by the *Supplier* and after clarification in full of the technical and commercial matters (e.g. approval of drawings, etc.) as well as after compliance with all formalities required by the authorities such as import, export, transit and payment approvals.
- 7.2 The delivery period is deemed to have been met when the goods are ready for delivery or acceptance as agreed.
- 7.3 The delivery period will be reasonably extended:
 - a) if the details required for performance of the order are not received timely by the *Supplier* or if these are subsequently changed by the *Customer*,
 - b) if the periods for payment are not complied with, if letters of credit are opened too late or import licences are not available to the *Supplier* in time,
 - c) if obstacles arise which the *Supplier* is unable to avoid in spite of exercising the requisite degree of care, regardless of whether these arise at the *Supplier*, at the *Customer* or a third party. Such obstacles are events of force majeure, for example, epidemics, mobilisation, war, unrest, considerable interruption of operations, accidents, labour disputes, delayed or defective supply of the necessary raw materials, semi-finished or finished products, rejection of important workpieces, official measures or injunctions, natural disasters.
- 7.4 The agreed delivery date is equivalent to the last day of a delivery period. Articles 7.1 to 7.3 apply accordingly.
- 7.5 If the goods and services are unable to be delivered within the agreed delivery period as a consequence of such events for which the *Supplier* is not responsible, no rights accrue to the *Customer* as a result.

8. Documents, Data

- 8.1 Indications of weights, dimensions, performances, prices, etc. in catalogues and brochures, etc. are general guides without binding effect. They are only binding in so far as having been expressly stipulated as such.
- 8.2 The *Supplier* reserves all rights to documents, plans and all data and test results. They may not be copied, brought to the knowledge of third parties by any means whatsoever, or used for the manufacture of a machine, plant or parts thereof.
- 8.3 The *Supplier* will provide one (1) documentation CD including Operator Manuals and Technical Instructions. Additional manuals on CD and/or paper copies are available on an individually quoted basis.

9. Cancellation

- 9.1 If the *Customer* withdraws an order, the *Supplier* is entitled to be paid for all deliveries and services already rendered, plus a cancellation fee of at least 10% of the order value.

10. Packaging, Transport

- 10.1 Included in the scope of delivery is packaging for transport by air, road or rail. Additional packaging and dispatch requirements must be agreed in writing and are at the *Customer's* expense. Packaging is not returnable.
- 10.2 For "ex works" deliveries, transport and insurance are at the *Customer's* expense (according to current Incoterms).
- 10.3 The *Customer* must report complaints about damage, losses, etc. in connection with transport immediately after receipt of delivery, or receipt of the freight documents, and such complaints must be certified by the last freight forwarder.

11. Passing of Use and Risk

- 11.1 Use and risk are defined by the applicable Incoterm.
- 11.2 If dispatch is delayed or rendered impossible for reasons for which the *Supplier* bears no responsibility, the risk passes to the *Customer* at the point in time originally scheduled for the "ex works" delivery. The goods are then stored and insured from this time onwards at the *Customer's* risk and expense.

12. Inspections and Acceptances

- 12.1 Prior to each dispatch, each system will be inspected to the usual extent. If the *Customer* wishes to be present during the inspection of his goods, this must be agreed in writing at the time of placing the order.
- 12.2 The *Customer* may accept the goods personally or through an authorised representative. Acceptance takes place in the manufacturer's works and includes a functional test without feeding products. The costs are at the expense of the *Customer*.
- 12.3 The *Customer* must inspect the goods and services within a reasonable period of time and notify the *Supplier* of any defects without delay in writing. Should he fail to do so, the goods and services are deemed to have been accepted.

13. Assembly and Commissioning

- 13.1 Assembly and commissioning are never included in the purchase order price.
- 13.2 The *Customer* must perform assembly with competent specialist personnel. Any damage which occurs during the course of assembly is at the customer's expense.
- 13.3 Commissioning including inspection of the assembly work must be performed by personnel authorised by the *Supplier*.

14. Warranty, Liability for Defects

- 14.1 Guaranteed features are expressly mentioned in the order confirmation and apply until expiry of the warranty period. If the guaranteed features are not or only partially fulfilled, the *Customer* has a right to subsequent improvement within a reasonable period of time during the running warranty period. The *Supplier* must eliminate the defects notified as quickly as possible. The *Customer* must grant the *Supplier* an opportunity to do so. Rescission of the contract and reduction of the price are excluded.
- 14.2 The warranty period is 12 months. It commences with departure "ex works" of the goods or with any agreed and verifiable acceptance of the goods. If dispatch, assembly or acceptances are delayed for reasons for which the *Supplier* is not responsible, the warranty periods ends at the latest 18 months after readiness for delivery or readiness for acceptance.
- The guarantee expires prematurely if the *Customer* or a third party undertakes inappropriate modifications or repairs or if the *Customer*, in case of a defect, does not immediately take all appropriate steps to mitigate the damage and grant the *Supplier* the possibility of remedying such defect.
- 14.3 The *Supplier* undertakes, at his discretion, following a written demand from the *Customer*, to improve or replace as quickly as possible all parts of the goods which are damaged or unusable verifiably as a consequence of bad quality material, faulty construction or defective performance until the expiry of the warranty period. Replaced parts become the property of the *Supplier* and must be sent back to the *Supplier*. The *Supplier* pays all the costs of subsequent improvement incurred in the supplier's works. If it is not possible to undertake subsequent improvement in the works of the *Supplier*, the costs associated with the same, insofar as they exceed the usual costs for transport, labour, travelling and accommodation expenses and for removal and refitting of the defective parts, will be paid by the *Customer*.
- 14.4 Excluded from the warranty and liability of the *Supplier* are damages which have not verifiably arisen as a consequence of bad quality material, faulty construction or defective performance, e.g. those resulting from natural wear and tear, inadequate maintenance, failure to comply with operating instructions, excessive loads, unsuitable operating devices, chemical or electrolytic influences, any construction or assembly work not carried out by the *Supplier* or resulting on other reason for which the *Supplier* bears no responsibility.
- 14.5 For goods and services rendered by subcontractors stipulated by the *Customer*, the *Supplier* gives a warranty only within the framework of the warranty obligations of the relevant subcontractors.
- 14.6 The *Supplier* undertakes to perform the delivery in conformity with the contract and to provide all warranty services which are verifiably necessitated by bad quality material, faulty construction or defective performance. Any further liability for any damages, consequential damages, lost profit and indirect damages is excluded within the limits of mandatory law.
- 14.7 For claims of the *Customer* based on bad advice or similar or breach of any ancillary duties, the *Supplier* is liable only in the event of unlawful intent or gross negligence.

15. Integrity Clause

The parties undertake to take all necessary measures to avoid corruption, in particular that no payments, gifts or other advantage will be offered or accepted. Failure to meet this obligation shall entitle the *Supplier* to terminate the contract. The *Supplier* shall be entitled to the payment of those parts of the supplies and services, which have already been carried out. Claims for damages on the part of the *Customer* because of such termination are excluded.

16. Exclusion of the Supplier's liability in the event of embargoes or similar occurrences

Supply and services (the fulfilment of contract and liability for defects) shall be under the proviso that fulfilment is not being restricted by any national or international regulations, particularly export control regulations and embargoes or any other restrictions. The contract partners shall be obliged to provide all information and documentation needed for the export/shipment/import. Delays caused by export checks or licensing procedures shall override any lead times or deadlines stipulated. The *Customer* shall have no claims whatsoever against the *Supplier* for damages or reimbursement of expenses relating to failures to meet time-limits, non-performance of the contract and/or warranty works on account of export control regulations, embargoes or any other restriction.

17. Place of Performance, Applicable Law and Place of Jurisdiction

- 17.1 Place of performance for all deliveries and services is "ex works", 5702 Niederlenz, Switzerland.
- 17.2 This contract shall be governed by Swiss substantive law. The application of international commercial law agreements, particularly the UN Convention on Contracts for the International Sale of Goods (CISG), is hereby expressly excluded. **The courts at the place of the registered office of the *Supplier* shall have exclusive jurisdiction for any and all claims in connection with and relating to this agreement.**