

1. EXCLUSIVITY

1.1 These General Terms and Conditions for Supply and Purchase (hereinafter referred to as the "Conditions") are used and will form the terms and conditions between any company belonging to Winterthur Gas & Diesel Ltd. (hereinafter referred to as the "Purchaser") and a seller (hereinafter referred to as the "Supplier") concerning supply and purchase of goods and/or services, unless the Purchaser has expressly agreed otherwise in writing.

1.2 Supplier's general conditions of supply shall not apply to the Purchaser's purchases, unless the Purchaser has expressly accepted them in writing.

2. INVITATIONS, OFFERS

All offers are to be submitted without cost to the Purchaser. Unless otherwise provided in writing by the Purchaser or by the Supplier, offers shall be open for acceptance for 90 days from the day the Purchaser receives them.

3. FORM OF ORDERS

3.1 Written orders on the Purchaser's official form only are valid. Subject to this condition they may also be submitted via telefax or computer. The same shall apply to supplementary orders. Sketches, drawings, comments, specifications, etc. shall form an integral part of the Purchaser's orders to the extent they are expressly mentioned as such therein and are dated initialled by the Purchaser.

3.2 If the contract is to enter into force, the order must be accepted without alteration. This must be confirmed by the Supplier without delay.

3.3 The Supplier is under obligation to query the Purchaser if it is obvious to him that essential parts of the contract contain an error, in particular affecting the quantity, price or delivery period.

4. SUBCONTRACTING

4.1 Suppliers shall be wholly liable within the terms of the order for components procured from their subcontractors.

4.2 Should the Supplier wish a third party to manufacture a unit or component ordered from Supplier and normally manufactured in Supplier's own facilities, he shall have to obtain the Purchaser's written approval previously.

4.3 The Supplier must impose upon his subcontractors the same obligations to secrecy as those in force between the Supplier and the Purchaser as set out in Clause 14 below.

5. PRICES

5.1 The prices agreed shall be deemed to be fixed prices.

5.2 Where orders do not state a binding price, the invoiced price shall be supported by vouchers. The Purchaser reserves the right of approval.

6. PROVISION OF MATERIALS

The title to materials supplied by the Purchaser for execution of an order shall remain ours even following machining or processing. Such materials shall be marked accordingly and shall be stored separately until machined or processed. On demand by the Purchaser, machining waste shall be returned to the Purchaser.

7. DELIVERY PERIOD, CONSEQUENCES OF DELAYS

7.1 The delivery period shall be deemed to have been observed:

- i) for ex-works deliveries, provided readiness for shipment of the agreed consignment subsists and has been notified to the Purchaser before expiry of such period,
- ii) in all other cases, provided the agreed consignment has arrived at destination before expiry of such period.

Should the Supplier foresee that part or all of a consignment cannot be made within the delivery period, Supplier shall notify the Purchaser immediately, stating the reasons and the expected duration of the delay.

7.2 If delivery is effected more than 2 weeks after the agreed date, The Purchaser is entitled to a penalty amounting to 0.5%

weekly for delayed delivery. The penalty will be calculated on the sales price of the delayed part of the delivery. If owing to this delay another part of the goods supplied under the same contract cannot be used, the 0.5% compensation shall be paid on all goods that cannot be used. Damages for delayed delivery shall not exceed 5% of the relevant sales price. If delivery is delayed more than 3 months the Purchaser has the right to terminate the contract by giving written notice.

The payment of a penalty for delayed delivery does not release the Supplier from payment of damages for infringement of his contractual obligations.

7.3 Suppliers shall not be entitled to use the non-arrival of essential documents, components or other objects to be supplied by use a defence, unless the same have been demanded in good time or, where supply dates have been agreed, a reminder has been sent forthwith.

8. PACKING, DOCUMENTS, SHIPMENT, INSURANCE, ASSUMPTION OR RISK

8.1 General

8.1.1 Failing shipment instructions from the Purchaser to the contrary, consignments shall be shipped freight paid to destination.

8.1.2 Packing shall be executed so that the goods are effectively protected against damage and corrosion during shipment and any subsequent proper storage. Suppliers shall be liable for damage due to inadequate packing.

8.1.3 Suppliers shall bear all costs and prejudices arising from failure to conform with the Purchaser's instructions as to shipment, Customs clearance, etc.

8.1.4 Where special care is necessary during unpacking, the Purchaser shall be notified thereof in due course. In particular a suitable and conspicuous warning shall be attached to the packing.

8.1.5 The Purchaser reserves the right to return packing material against credit of the amount charged to the Purchaser. The cost of return shipment shall be for the Purchaser's account.

8.2 Documents

8.2.1 Each consignment is to include a detailed delivery note (consignment note). The invoice, in duplicate, is to be sent to the Purchaser under separate cover.

8.2.2 All correspondence (letters, delivery documents, invoices, etc.) must show the Purchaser's purchasing order number, order number, order date, article designations with quantities, dispatch documents and gross and net weights. The delivery (consignment) note must show the Purchaser's delivery address.

8.3 Transfer of benefit and risk

8.3.1 Unless otherwise agreed in writing, benefit and risk shall pass to the Purchaser on acceptance of the consignment

8.4 Should the required shipment documents for a consignment not be supplied in accordance with instructions, the consignment shall be stored at Supplier's charge and risk until arrival of the same.

9. ORDER FOLLOW-UP

Representatives of the Purchaser are entitled after giving prior notice to verify the processes necessary for the quality and progress of the products in the works of the Supplier or his subcontractors.

10. ACCEPTANCE, GUARANTEE

10.1 Each consignment will be inspected as soon as the normal course of business permits. If it conforms to the Purchaser's order, it will be accepted.

10.2 Supplier's hereby guarantees that the items supplied are free of any defects which might impair their value or their suitability for their intended use, that they possess the stated characteristics and the prescribed performance figures and specifications and that they are in conformity with any relevant laws, regulations and any other provisions.

10.3 Should it emerge during the guarantee period that the consignment or portions thereof fail without fault on the Purchaser's part to conform to the guarantee provided by Clause 10.2, the Supplier shall at the Purchaser's option forthwith remedy the defects or cause them to be remedied at his own charge or shall supply to the Purchaser free of charge with non-defective replacement. The parties will agree where the defects are to be remedied in each particular case.

10.4 Should the Supplier fail to remedy defects forthwith or should the case be urgent, the Purchaser shall have the right to remedy the defects himself or cause them to be remedied at Supplier's charge and risk.

10.5 Defects will be notified on detection. The Supplier hereby waives the defence of tardy notification.

10.6 The guarantee period shall extend 1 year from the commissioning, unless other arrangements are agreed between the parties or this contract rules otherwise.

10.7 If The Purchaser proves that a defect is due to faulty manufacture, the Supplier shall remedy the defect or supply a faultless replacement without charge even after the guarantee period has expired. Faulty manufacture includes defects resulting through deviations from the Purchaser's design drawings and specifications.

10.8 Materials found to be defective in the course of working on them within 5 years from delivery shall immediately be replaced free of charge.

10.9 In the event of disputes about quality parameters, expert opinion will be secured. If the parties cannot agree on the expert, the opinion of the Swiss Federal Laboratories for Materials Testing & Research (EMPA) will be requested. The parties undertake to accept the findings of the agreed expert or the EMPA as the case may be. The costs of the expert opinion will be borne by the partner at fault.

10.10 Where substitute delivery is made, the items originally delivered shall be left with the Purchaser for use free charge until impeccable substitute supplies are available to the Purchaser ready for service.

10.11 Replacement supplies and repairs shall be guaranteed with the same benefits as applied to the original supplies themselves, the guarantee period for repaired or replaced parts commencing to run anew from the date at which they are taken into service.

10.12 Without prejudice to the generality of the foregoing the Purchaser shall in any event be entitled to such other claims as may be provided by law.

11. PATENT INFRINGEMENTS

The Supplier shall keep the Purchaser indemnified against all claims of whatsoever nature (including those for royalties, damage or other losses) arising from infringement of a patent or other industrial right of a third party by the supply or use of apparatus, articles or processes embodied or used in the completion of the Purchaser's order. In any event, The Supplier shall render it possible for the Purchaser to use the items delivered without impediment. The Purchaser's own designs are exempted from the foregoing.

12. WORK CARRIED OUT IN THE PURCHASER'S FACILITIES

Where work is carried out in the Purchaser's own facilities or on construction or erection sites, these General Conditions of Purchase shall be supplemented by the Purchaser's safety instructions and rules for outside firms.

13. DRAWINGS, TEST CERTIFICATES, OPERATING INSTRUCTIONS

13.1 Approval by the Purchaser of construction drawings shall not relieve suppliers of their responsibility for their supplies. Final construction drawings, test certificates and the maintenance and operating instructions and spare parts lists required for the proper maintenance of the supplies shall be handed to the Purchaser in the quantities and languages requested not later than arrival of the supplies.

13.2 Drawings, tools, foundry patterns and the like made available by the Purchaser to the Supplier are to be stored properly and insured by the Supplier. They remain the Purchaser's property, shall be clearly marked as such and shall

be returned to the Purchaser after execution of the order unless other arrangements have been agreed in writing.

14. SECRECY

14.1 Data, drawings, etc. handed by the Purchaser to suppliers for the purposes of preparing an offer or manufacturing an item supplied shall not be used for any other purpose, reproduced or made available to third parties. Copyright shall remain with the Purchaser. All documents together with all copies or reproductions shall be returned to the Purchaser on demand. Should the supplies ordered not be delivered, the Supplier shall return all documents to the Purchaser immediately.

14.2 Suppliers shall keep orders and the work or deliveries associated therewith confidential.

15. TERMS OF PAYMENT

15.1 Unless otherwise agreed, payment to be within 30 days of receipt of the goods, those documents agreed to be delivered with same and the invoice; however, at the earliest 30 days after the agreed delivery date or after the agreed assembly completion date.

15.2 The Purchaser reserves the right to offset counter-claims by the Purchaser or its subsidiaries. The Supplier shall not be entitled to assign claims against the Purchaser except with Purchaser's approval, which the Purchaser shall not unreasonably withhold.

15.3 The Purchaser does not accept Cash on Delivery (COD) deliveries or bills of exchange.

15.4 Where the Purchaser makes advance payments, suppliers shall supply a suitable bank or insurance guarantee in the form of a joint liability surety.

16. PLACE OF FULFILMENT, APPLICABLE LAW, JURISDICTION

16.1 Place of fulfilment for deliveries shall be the agreed destination. Place of fulfilment for payments shall be the Purchaser's Registered Office.

16.2 The Contract shall be governed by the substantive laws of Switzerland with exclusion of the conflict of law provisions in there.

16.3 Any dispute arising out of or in connection with this Contract shall be finally settled under the Rules of the International Chamber of Commerce by three (3) arbitrators appointed in accordance with the said Rules. The arbitration shall be in the English language and the place of arbitration shall be Zürich, Switzerland.

16.4 Nothing contained in this Clause shall preclude the Purchaser from bringing any legal suit, action or proceedings against the Supplier in the courts of any jurisdiction where the Supplier or any of its property or assets may be found or located, and the Supplier hereby irrevocably submits to the jurisdiction of any such court.