

General Terms and Conditions of Sale – Georg Fischer Rohrleitungssysteme (Schweiz) AG, Schaffhausen

1 General

- 1.1. These general terms and conditions of sale (hereinafter referred to as "**General Terms and Conditions**") shall apply to all products supplied and services performed by Georg Fischer Rohrleitungssysteme (Schweiz) AG (hereinafter referred to as "**GF**") towards the Purchaser (hereinafter referred to as "**Products**"). They shall also apply to all future sale of goods similar to the Products and all other business even when no express reference is made to these General Terms and Conditions.
- 1.2. Any legal transactions (one-, two-, as well as multi-sided legal transactions, e.g. conclusion, disputing, contesting etc) on the part of GF and Purchaser must be in writing in order to be valid. Provisions deviating or supplementing these General Terms and Conditions, especially Purchaser's general terms and conditions of purchase and verbal agreements shall only be applicable if accepted in writing by GF or if they favor GF. The written form shall be deemed complied with all forms of transmission, evidenced in the form of text, e-mail, etc. Excluded thereof shall be the transmission by fax.
- 1.3. Offers shall only be binding if they contain a specifically stated period for acceptance.

2 Scope of supplies

- 2.1. GF's product range is subject to change without prior notice.
- 2.2. The order confirmation shall govern the scope and execution of the contract.
- 2.3. GF shall be entitled to hire subcontractors.

3 Local Laws and Regulations, Export Controls

- 3.1. The Purchaser shall bring to the attention of GF all local laws and regulations at the place of destination which bear connection with the execution of the contract and the adherence to relevant safety regulations and approval procedures.
- 3.2. Unless otherwise agreed in accordance with Clause 3.1, the supplies shall comply with the regulations and standards at GF's registered office.
- 3.3. In case of re-exports, the Purchaser shall be responsible for compliance with pertinent export control regulations.

4 Price

- 4.1. Unless agreed otherwise, the prices shall be deemed to be in CHF, net, EXW (Incoterms 2020 of the ICC, or latest version) at the production site of GF, including standard packing.
- 4.2. If contrary to EXW (Incoterms 2020 of the ICC, or latest version), at the production site of GF, costs of any kind, in particular all supplementary costs, such as the cost of carriage, freight, insurance, export, transit and import licenses etc. as well as all types of taxes, fees, duties, etc. connected with the contract, shall be borne by GF, GF reserves the right to adjust the prices accordingly in the event of a change in costs.
- 4.3. If the Products are provided with additional packaging over and above the standard packaging, such packaging shall be charged additionally.

5 Terms of Payment

- 5.1. The Purchaser shall make payments at the place of GF within thirty (30) days of receipt of invoice without any deductions, such as discounts, costs, taxes or dues.
- 5.2. The Purchaser shall only have a right of set-off against counterclaims that are either undisputed by GF or legally established to the Purchaser by a court of competent jurisdiction. The Purchaser shall have no right to withhold payments due if unessential parts of the delivery are still pending provided that the use of the delivery is not rendered unusable as a result.
- 5.3. If the advance payment or the contractually agreed securities have not been made on time, GF shall be entitled to adhere to or rescind the contract and shall in both cases be entitled to claim damages.
- 5.4. If the Purchaser, for any reason, is in delay with a payment, or if GF is seriously concerned that GF will not receive payments in total or in due time because of circumstances having taken place since entering into the contract, GF, without being limited in its rights provided for by law, shall be entitled to refuse the further performance of the contract and to retain the Products ready for dispatch until new terms of payment and delivery will have been agreed and until GF will have received satisfactory securities. If such an agreement cannot be reached within a reasonable time, or if GF does not receive adequate securities, GF shall be entitled to rescind the contract and to claim damages.
- 5.5. If the Purchaser does not adhere to the agreed terms of payment, the Purchaser shall be liable without reminder, for default interest to the amount of five (5) percent of the contract price with effect from the agreed date on which the payment was due. The right to claim further damages is reserved.

6 Reservation of Title

- 6.1. As far as acknowledged by the jurisdiction in the respective country of destination of the goods, the further provision of this Clause 6 shall apply. In any case, they shall be considered separable from each other in terms of content and linguistics and shall apply to themselves.
- 6.2. **Simple reservation**
GF retains title to all goods delivered by GF until full payment of the respective claims of GF.
- 6.3. Processing or transformation of the goods supplied by GF by the Purchaser is always carried out for GF. If the goods supplied are processed or inseparably combined or mixed with objects not belonging to GF, co-ownership of the new object shall be acquired in proportion to the value of the goods supplied by GF to the other processed objects at the time of processing or in proportion to the value of the goods supplied by GF to the other combined or mixed objects at the time of combination or mixing. If the goods are combined or mixed by the Purchaser with other objects to form a single object and if the other object is to be regarded as the main object, the Purchaser is obliged to transfer co-ownership to GF on a pro rata basis insofar as the main object belongs to the Purchaser. The Purchaser shall retain the sole ownership or co-ownership on behalf of GF.
- 6.4. During the period of reservation of title, the Purchaser shall at his own cost maintain the supplies and insure them for the benefit of GF against theft, breakdown, fire, water and other risks. The Purchaser shall further take all measures to ensure that GF's title is in no way compromised or rescinded.
- 6.5. **Extended reservation of title**

- 6.5.a. Should the Purchaser resell Products to which title is reserved, in the ordinary course of business, the Purchaser shall hereby be deemed to have tacitly assigned to GF the proceeds deriving from their sale together with all collateral rights, securities and reservations of title until all claims held by GF have been settled.
- 6.5.b. The Purchaser is authorized to collect the assigned receivables, as long as the Purchaser fulfills his payment obligation towards GF in accordance with the contract.

6.6 Overall reservation of title

- 6.6.a. The requirements to be met from Clause 6.2 extends to all current and future demands of GF towards the Purchaser.
- 6.6.b. The assignment is only valid insofar as the value of the Products subject to retention of title together with the granted securities exceeds GF's claims against the Purchaser by more than 20%.

7 Terms of Delivery

- 7.1. Unless otherwise agreed (see Clause 4), the Products shall be delivered EXW (Incoterms 2020 of the ICC, or latest version) production site of GF.
- 7.2. The term of delivery shall commence as soon as the contract has been entered into, all official formalities, such as import and payment permits have been obtained and all essential technical issues have been settled. The term of delivery and the delivery dates shall be deemed duly observed when, upon its expiry or on the day of the delivery date, the Products are ready for dispatch.
- 7.3. Part shipments to a reasonable extent shall be allowed and GF shall be entitled to invoice for such partial deliveries.
- 7.4. Delivery is subject to the following conditions, i.e. the delivery time shall be reasonably extended, respectively the delivery date postponed.
 - 7.4.a. if the information of the Customer required by GF for the performance of the contract is not received in time, or if the Customer subsequently changes it, thereby causing a delay in the delivery of the supplies;
 - 7.4.b. if GF is prevented from performing the contract by force majeure. In particular, force majeure shall be deemed to be any unforeseeable event beyond GF's control which renders GF's performance commercially unreasonable or impossible, such as delayed or defective supplies from subcontractors, labor disputes, governmental orders or regulations, shortages in materials or energy, serious disturbances in GF's works, such as the total or partial destruction of plant and equipment or the breakdown of essential facilities, serious disruptions in transport facilities, e.g. impassable roads.
Should the effect of force majeure exceed a period of six (6) months, either party may terminate the contract effective forthwith.
In no event, GF shall be liable for any damage or loss of any kind whatsoever arising out of or caused by such an event of force majeure.
 - 7.4.c. if the Purchaser is in delay with the fulfillment of his obligations under the contract in particular, if the Purchaser does not adhere to the agreed conditions of payment or if he has failed to timely provide the agreed securities.
- 7.5. If for reasons attributable to GF the agreed term of delivery or a reasonable extension thereof is exceeded, GF shall not be deemed in default until the Purchaser has granted to GF in writing a reasonable extension thereof of not less than two (2) weeks which is equally not met. The Purchaser shall then be entitled to the remedies provided at law, it being however understood that, subject to

limitations of Clause 10, damage claims shall be limited to max. ten (10) percent of the price of the delayed delivery.

- 7.6. If the Purchaser fails to take delivery within a reasonable time of Products notified as ready for dispatch, GF shall be entitled to store the Products at the Purchaser's expense and risk and to invoice them as delivered. If the Purchaser fails to effect payment pursuant to the terms of payment, GF shall be entitled to dispose of the Products.
- 7.7. GF undertakes to inform the Purchaser of the consequences of his actions or omission. In the event of damage or loss of the Products during carriage, the Purchaser shall mark the delivery documents accordingly and immediately have the damage ascertained by the carrier. Not readily ascertainable damages sustained during carriage shall be notified by the Purchaser to the carrier within six (6) days after receipt of the Products.
- 7.8. If, contrary to the agreed terms of delivery, GF or the Purchaser take on tasks (e.g. transport, loading or unloading of the deliverables, insurance, etc.) which are not their responsibility but the contracting party's, these tasks shall be deemed to have been performed on behalf of and for the account of the respectively contracting party responsible. In this sense, the person executing the order acts as a vicarious agent for the responsible contracting party.
- 7.9. Should the Purchaser cancel an order without justification and should GF not insist on the performance of the contract, GF shall be entitled to a contractual penalty amounting to ten (10) percent of the contract price. The right to claim damages remains unaffected.

8 Inspection, Notification of Defect and Damages

- 8.1. The Products will be subject to normal inspection by GF during manufacture. Additional tests required by the Purchaser shall be agreed upon in writing and shall be charged to the Purchaser.
- 8.2. It shall be a condition of GF's obligation under the warranties stated hereinafter that GF is notified in writing by the Purchaser of any purported defect immediately upon discovery. Notice concerning weight, numbers or apparent defects is to be given within thirty (30) days from receipt of the Products, notice of other defects immediately latest within seven (7) working days after discovery, in any event within the warranty period.
- 8.3. The Purchaser shall not dispose of allegedly defective Products until all warranty and/or damage claims are finally settled. At its request, defective Products are to be placed at GF's disposal.
- 8.4. At its request, GF shall be given the opportunity to inspect the defect and/or damage, prior to commencement of remedial work, either by itself or by a third party.

9 Warranty, liability for defects

- 9.1. **Warranty**
 - 9.1.a. The warranty is, unless otherwise explicitly agreed, not transferable and limited to the country in which the representative of GF is located with whom the contract was concluded. Warranty claims must be made in the country in which the product in question was purchased.
 - 9.1.b. The warranty or damage claims become time-barred twelve (12) month from receipt of the Products by the end user but at the latest within eighteen (18) months of the Products being dispatched by GF.
 - 9.1.c. For spare or repaired parts, the warranty period is limited to the initial warranty period of the replaced or repaired part.
 - 9.1.d. For Products manufactured to specifications, drawings or patterns supplied by the Purchaser, GF's warranty shall be restricted to proper materials and workmanship.
 - 9.1.e. This warranty shall not apply to damage resulting from normal wear and tear, improper storage and maintenance, failure to observe the operating instructions, overstraining or overloading, unsuitable operating media, unsuitable construction work or unsuitable building ground, improper repairs or modifications / alterations by the Purchaser or third parties, the use of other than original spare parts and other reasons beyond GF's control.
 - 9.1.f. Claims for deficiency of title becomes time-barred twelve (12) month from receipt of the Products by end user.
- 9.2. **Liability for defects**
 - 9.2.a. At the written request of the Purchaser, GF undertakes to repair or replace at its discretion, as quickly as possible and free of charge, all Products supplied which demonstrably suffer from faulty design, materials or workmanship, from faulty operating or installation instructions or which became defective or unusable due to faulty advice.
Replaced parts shall be handed over to GF and become property of GF, unless GF waives this right.
In order to protect employees from toxic or radioactive substances which may have been transported in the Products concerned, defective parts returned to GF or its sales organizations, must be accompanied by a Material Safety disclosure Form. The form may be obtained from GF's local sales company.
 - 9.2.b. The Purchaser shall be entitled to rescind the contract or to demand a reduction of the contract price if
 - the repair or replacement of the defective Product is impossible,
 - the defective Product is not repaired or replaced within a reasonable period, or
 - if GF refuses the repair or replacement of the defective Product or if for reasons attributable to GF the repair or replacement is delayed.
- 9.3. In case of Products for use in domestic installations or in utilities
 - GF will assume, in deviation to Clause 10.3, the dismantling and installation costs for the restoration of the original condition of the defective Product up to a maximum amount of CHF 1'000'000 per occurrence.
 - warranty and damage claims - contrary to Clause 9.1.b - shall become time-barred five (5) years from the date of installation or seven (7) years from the production date, whichever is earlier.

10 Limitation of Liability

- 10.1. The rights and remedies of the Purchaser shall be exclusively governed by these General Terms and Conditions. All further claims such as damages, reduction of the purchase price, termination or rescission of the contract are excluded.
- 10.2. In no case, whatsoever, shall the Purchaser be entitled to claim damages other than compensation for costs of remedying defects in the supplies. This in particular refers, but shall not be limited, to loss of production, loss of use, loss of orders, loss of profit, third party recovery claims and other direct or indirect or consequential damages.
- 10.3. In the event that claims of the Purchaser in relation to or in connection with the contract or the breach thereof should exist, the total amount of such claims is restricted to the purchase price of respective delivery.
- 10.4. This limitation of liability equally applies to the extent GF is liable for acts or omissions of auxiliary persons such as its employees or third parties engaged for the performance of its obligations. It does not apply in case of unlawful intent or gross negligence on the part of GF and in case of GF's mandatory statutory liability, in particular under applicable product liability laws.

11 Data and Documents

- 11.1. Technical documents, such as drawings, descriptions, illustrations and data on dimensions, performance and weight as well as the reference to standards are for information purposes only. They are not warranted characteristics and are subject to change.
- 11.2. All technical documents shall remain the exclusive property of GF and may only be used for the purposes agreed between the parties or as GF may consent.

12 Confidentiality, Protection of Personal Data

- 12.1. Each party shall keep in strict confidence all commercial or technical information relating to the business of the other party, of which it has gained knowledge in the course of its dealing with the other party. Such information shall neither be disclosed to third parties nor used for other purposes than the agreed.
- 12.2. Personal data will only be processed by GF in accordance with the relevant laws and exclusively based on a separate contract submitted by GF.

13 Severability

Should any term or clause of these General Terms and Conditions in whole or in part be found to be unenforceable or void, all other provisions shall remain in full force and effect. The unenforceable or void provision shall be replaced by a valid provision, which comes closest to the original intention of the unenforceable or invalid provision.

14 Place of Performance, Applicable Law and Jurisdiction

- 14.1. Place of performance shall be the GF works from which the Products are dispatched.
- 14.2. The contract shall be governed by Swiss law to the exclusion of any conflict of law provisions and the United Nations Convention on Contracts for the International Sale of Goods (CISG) provisions.
- 14.3. Exclusive place of jurisdiction for any dispute, controversy or claim arising out of or in relation to this contract, including the validity, invalidity, breach or termination thereof, shall be the ordinary courts in Schaffhausen, Switzerland. However, GF reserves the right to file actions in any court having jurisdiction.