

1. Area of Applicability of these Terms and Conditions of Purchase

- 1.1. These terms and conditions of purchase apply to Swisslog's purchase orders in conjunction with a systems engineering project in the area of new or modernization projects implemented by Swisslog (hereinafter referred to as "Purchase Orders" or "Purchase Order", respectively).
- 1.2. The Purchase Order of Swisslog takes precedence over these terms and conditions of purchase. These terms and conditions of purchase take precedence over all remaining contractual documents unless specifically defined otherwise in the Purchase Order.

2. Scope of Performance

- 2.1. Unless agreed otherwise, the scope of work of the Supplier consists of technical design, production or procurement, delivery to site, unloading at site, installation, testing, putting into operation, and documentation of the contractually agreed supplies and services. The Supplier must provide the contractually agreed supplies and services within the prescribed time limit, in a turnkey condition, meeting all the requirements specified in the contractual specifications and/or required by current scientific and technical standards. The supplies and services must also be provided in a way that fulfills the special requirements stipulated in a contract entered into with the end customer and disclosed to the Supplier. Subject to express agreements to the contrary, the Supplier must provide the equipment, facilities, and labor needed to fulfill its contractual duties. The supplies and services as defined in the contractual documents are also referred to collectively in the following as the "Contractual Work".
- 2.2. The Supplier has fulfilled its duty to inform itself about all the details of the scope of the work required and has done so in due consideration of all eventualities discernible to an experienced businessperson at the time the contract was entered into. The Supplier especially affirms that it (i) has inspected and evaluated all documents received from Swisslog, especially in terms of their accuracy and completeness, (ii) if applicable has inspected the site and familiarized itself with the possibilities for carrying out the work, and (iii) accordingly has offered all supplies and services that are needed for the turnkey provision of its Contractual Work.
- 2.3. The place of performance for the Supplier is the agreed place of delivery.

3. Contract Price

- 3.1. The price for the Contractual Work is a fixed and firm price for the total agreed supplies and services specified in the Purchase Order (hereinafter referred to as the "Contract Price"). All prices are net prices, i.e. excluding any statutory value-added tax owed.
- 3.2. Prices will not be adjusted on account of deviations from the way the work is executed. Prices will not be adjusted for inflation.
- 3.3. The Supplier also bears the risk of any extraordinary occurrences that hinder or make it more difficult to provide the Contractual Work, and it is not entitled to pass on to Swisslog any additional costs incurred by this. Force majeure is, however, excluded from this.
- 3.4. The Supplier itself is responsible for paying all taxes, fees, and public charges originating from its portion of the supplies and services.

4. Terms of Payment

- 4.1. The Contract Price shall be paid in installments set forth in the Purchase Order provided, however, that each such payment shall only be due if and to the extent that the relevant milestone or work has been achieved or has been performed.
- 4.2. The Contractual Work performed must be evidenced on the basis of a verifiable itemized list that enables a swift and sure assessment of the Contractual Work performed. The partial payments have no effect on the Supplier's liability and do not constitute acceptance of portions of the Contractual Work.

- 4.3. The Supplier's invoices become due for payment (a) 60 days net or (b) 30 days with 3% cash discount after receipt by Swisslog and under the condition that the Contractual Work has been performed in conformity with the contract. This is subject to the presentation of any Bank Guarantee required by the Purchaser.
- 4.4. In the absence of an agreement on partial payments, the Supplier's invoices are due for payment no earlier than 60 days after the Contractual Work has been accepted. In cases where the Contractual Work does not conform, payment is due no earlier than 60 days following the remedying of non-conforming work. This is subject to the presentation of any security agreed to by the Supplier. Swisslog is entitled to withhold payments that are due until it has received from the end customer the corresponding payment under the contract with the end customer.
- 4.5. The place of performance for the payment of the purchase price is the location of the registered office of the Swisslog entity who issued the Purchase Order.

5. Planning

- 5.1. All documents and supporting materials provided to the Supplier by Swisslog are binding for the Supplier. However, the Supplier is obligated, prior to and during the implementation of the contract, to review the documents and supporting materials obtained from Swisslog for irregularities and completeness and to promptly inform Swisslog in writing of any discovered or suspected errors.
- 5.2. The Supplier is obligated, on the basis of the documents and supporting materials obtained from Swisslog under this contract, to independently draw up or to procure at its own expense all of the planning materials/documents required to fulfill the contract.
- 5.3. The Supplier must submit the planning documentation by the agreed date to Swisslog for its approval. Swisslog must grant its written approval of the submitted documentation provided that (i) the data/information is consistent with the last state of the planning, (ii) the Supplier has coordinated activities with the other parties involved in the erection of the system in so far as the supplies and services of such parties affect the Contractual Work of the Supplier, and (iii) any corrections and supplementations made by Swisslog are being taken into account in the further adaptation and execution of the work.
- 5.4. Swisslog is obligated to grant the approval within a time period of 15 days or to state the reasons why it is not yet possible to grant the approval. The Supplier must contact Swisslog promptly about any concerns regarding the implementation of Swisslog's amendments and the contracting parties must endeavor to come to an agreement.
- 5.5. The Supplier remains responsible for any irregularities and incompleteness of the documents and supporting materials submitted and for the consequences of these even if these documents and supporting materials have been approved by Swisslog.
- 5.6. Any concerns that the Supplier has in relation to claims, orders, or demands made by Swisslog or the end customer must be promptly reported by the Supplier in writing.

6. Modifications

- 6.1. Swisslog is up to the time it accepts the supplies and services entitled to demand modifications to the design, supplies, services, and the execution of the Contractual work. The Supplier is also entitled to suggest such modifications at any time. The Supplier is willing to carry out and implement such modifications and supplementary work in a timely manner, including after the contract has been entered into, in due consideration of additional costs or reductions of costs.
- 6.2. The Supplier is only entitled to remuneration and deadline adjustments for additional and supplementary work if the additional and supplementary work, including the effects that such work may have on the Contract Price and the milestones, was agreed in writing between the parties prior to its execution.

- 6.3. If Swisslog insists on the execution of the additional or supplementary work despite the fact that the parties were unable to reach an amicable agreement about its effects, the Supplier is obligated to execute it but retains its contractual right to remuneration and deadline adjustments.
- 6.4. If the parties disagree as to whether, in the specific case, the matter involves a remuneration-free specification or a modification for which remuneration is owed, the parties agree that the definitions and assessments made in this regard in the contract with the end customer also apply to the contractual relationship at issue.
- 6.5. Swisslog has the right, after the contract has been entered into, to have individual portions of the Contractual Work omitted from the Supplier's total scope of work. The Supplier has no claims to loss of profits in such cases.

7. Deadlines and Delays

- 7.1. The Contractual Work must be performed by the contractual milestones. The agreed milestones and time limits are binding and the strict compliance with them is a fundamental contractual obligation of the Supplier.
- 7.2. Any deadline changes and anything that hinders the Supplier from implementing its Contractual Work within a prescribed time limit must be reported promptly to Swisslog in writing.
- 7.3. The Supplier is automatically in delay of performance when it fails to meet an agreed milestone. When the Supplier is in delay of performance, Swisslog is entitled to its contractual and statutory rights. When the Supplier is in delay of performance, Swisslog is also entitled to refuse the Supplier's performance without the need for granting the Supplier a grace period within which to perform.
- 7.4. If the Supplier fails to meet the agreed milestone(s) for completing and delivering its Contractual Work, the Supplier must also pay a contractual penalty to Swisslog. The contractual penalty is half of one percent (0.5 %) of the Contract Price per day of exceeding the milestone. The contractual penalty is limited to a maximum of ten percent (10 %) of the Contract Price. Swisslog is entitled to demand contractual penalty in addition to the performance of the contract. The contractual penalty is due immediately and may be enforced by Swisslog until 12 months following the time of acceptance, even if the right to do so was not reserved at the time of acceptance. This section applies to each and every contractual milestone and not only to the final milestone.
- 7.5. The postponement of a milestone for reasons attributable to the end customer or its subcontractors entitles Swisslog to suspend the work and adjust these deadlines. The Supplier is not entitled for remuneration if the suspension or postponement is for less than 180 days. Swisslog must promptly inform the Supplier in writing of any such milestone changes.

8. Acceptance and Passing of Risk

- 8.1. The acceptance of the Supplier's Contractual Work is made by the end customer in relation to the system as a whole. The Supplier has no right to an acceptance at an earlier point in time.
- 8.2. The use and the risk in relation to the Supplier's Contractual Work pass to Swisslog with the acceptance.
- 8.3. Any preliminary testing or use carried out by Swisslog on the Contractual Work after its delivery and completion is in no way deemed as acceptance or partial acceptance of the Contractual Work. Contractual Work that is already being used by Swisslog or by the end customer prior to acceptance must be brought into an acceptance-conform state prior to such acceptance.

9. Warranty

- 9.1. The limitation period for all warranty claims uniformly begins with the acceptance of the Contractual Work. This applies whether or not portions or all of the Contractual Work was taken over in advance.
- 9.2. In the absence of an express agreement to the contrary, warranty claims based on defects in the Contractual Work are barred by limitation two years and one month after acceptance, unless applicable laws provide for a longer period, e.g. in case of latent defects. This notwithstanding, the limitation period does not end until one month after the end customer's warranty claims against Swisslog have become barred by limitation, even if this occurs later than two years and one month after acceptance. Swisslog is entitled at any time during the limitation period to make formal notification of defects.
- 9.3. Swisslog is entitled to the statutory and contractual warranty claims. Swisslog also has the right to have defective parts subsequently repaired or replaced, including replaced by third parties.
- 9.4. For parts repaired or replaced during the limitation period, the limitation period begins to run anew.

10. Security

- 10.1. If Swisslog pays a contractually agreed down payment, the Supplier must provide Swisslog, after the contract is entered into, with an advance payment guarantee in the form of a bank guarantee in the amount of the down payment, such bank guarantee being subject to the right to have the down payment paid out.
- 10.2. The Supplier must provide Swisslog, after the contract is entered into, with a performance bond in the form of a bank guarantee in the amount of ten percent (10 %) of the Contract Price. Swisslog is obliged to return the performance bond to the Supplier once all of the Supplier's obligations under the contract, with the exception of warranty claims after acceptance, have been fulfilled by the Supplier.
- 10.3. The Supplier must provide Swisslog, concurrently with the paying of the final payment, with a warranty bond in the form of a bank guarantee in the amount of five percent (5 %) of the Contract Price. Swisslog is obliged to return the warranty bond upon the expiry of the limitation period for warranty claims plus sixty (60) days. If no warranty bond is provided, an amount of 5% of the Contract Price is withheld by Swisslog as security for the fulfillment of Swisslog's warranty claims for the duration of the limitation period of these claims; this amount is due for payment once the limitation period ends.
- 10.4. The guarantees must be provided in the form of irrevocable and on demand guarantees.

11. Software and Intellectual Property

- 11.1. With regard to software that forms a part of the Supplier's Contractual Work, Swisslog and the end customer acquire the right to use such software within the parameters of the defined usage of the Contractual Work, such right of use being unlimited in time and non-exclusive and for which no extra remuneration must be paid.
- 11.2. At the request and expense of Swisslog, the source code must be deposited with an independent third party
- 11.3. The Supplier warrants that the Contractual Work and the production of it by the Supplier does not infringe any patent rights, proprietary protection rights, or any other rights of third parties. The Supplier undertakes to indemnify Swisslog in full, regardless of any fault (i.e. intention or negligence) on the part of the Supplier, from any such claims of third parties. Swisslog is also entitled in the event of such an infringement to immediately terminate the contract.

12. Right to Terminate

- 12.1. In addition to the contractual and statutory rights to terminate the contract, Swisslog also has the right to terminate the contract if
- the end customer terminates its contract with Swisslog,
 - any not yet issued public-law permits for the erection and operation of the building constructions and systems are not issued to the end customer according to the terms of the application,
 - due to modifications requested by the end customer, it is no longer reasonable for Swisslog to continue on with the contract; or
 - under the contract with the end customer, the end customer is in default (as debtor).
- 12.2. In such cases, there is no right to claim loss of profits for non-performed Contractual Work.

13. Miscellaneous

- 13.1. The Supplier is obliged for at least ten (10) years commencing with acceptance of the Contractual Work to supply spare parts at fair market prices. The Supplier must inform Swisslog about any relevant changes to its spare parts portfolio with at least one (1) year prior notice
- 13.2. Within three (3) months as of the date on which the contract has entered into force, the Supplier shall provide Swisslog with an itemized spare parts list of the Contractual Work including Original Equipment Manufacturer (OEM) information (i.e. name and address of the OEM and OEM part number).
- 13.3. Upon a written request in advance by Swisslog, the Supplier will grant Swisslog access to its production facilities, and/or its subcontractors facilities, and will invite Swisslog in a timely manner to any testing carried out in its works and at the place of delivery.
- 13.4. The Contractual Work must be packaged in an appropriate way in order to protect the material from any damage during shipment and storage. Furthermore, the packing shall facilitate further handling at the agreed place of delivery and maintain optimum costing in view of the overall process. The packaging material shall comply with ISO 14001.
- 13.5. The Supplier warrants that the Contractual Work is being provided in conformity and compliance with all applicable laws and regulations. The Supplier warrants that the Contractual Work is being provided in conformity with the industrial safety regulations and other regulations in force at the location.
- 13.6. The Supplier undertakes to conduct its business with integrity and to observe all applicable laws and recognized branch standards. This also applies to generally recognized standards in relation to working conditions, safety at the workplace, and environmental protection.
- 13.7. The Supplier undertakes to refrain from violations of competition and anti-corruption laws and to have in place suitable measures for preventing such violations. These requirements must be imposed on its staff, sub-suppliers, commissioned parties, and other assistants.
- 13.8. The Supplier undertakes to keep confidential all documents, drawings, processes, know-how, and other facts that have come to its knowledge through its work for Swisslog and to use these solely for the purpose of performing the Contractual Work for Swisslog. These requirements must be imposed on its staff, sub-suppliers, commissioned parties, and other assistants.
- 13.9. Any direct correspondence or negotiations with the end-customer or their agents related to the scope of the contract shall only be carried out after consultation with, and approval by Swisslog.
- 13.10. The contractual relationship is governed by the substantive laws of Switzerland, to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG) and of the provisions of private international law. **Place of jurisdiction is Aarau, Switzerland.**