

General Terms and Conditions of Sale (rev.dd. November 2020)

1. General principles

1.1 These Terms and Conditions of Sale (the "Terms and Conditions") set forth the terms and conditions which shall apply to the supply of goods (hereinafter – the Goods) offered by EPM Europe GmbH (also referred to as the "Seller") and purchased by the Buyer under the purchase order placed by the Buyer and accepted by the Seller (hereinafter – Purchase order) or under any mutually signed legal document that recognizes and governs the rights and duties of the parties (hereinafter – the Contract).

These Terms and Conditions and Purchase order shall solely govern the legal relation between EPM Europe GmbH and the Buyer. The Buyer's general terms and conditions shall apply only if expressly accepted by the Seller in writing.

1.2 Any Purchase order implies unreserved acceptance by the Buyer of these Terms and Conditions, which cancel and replace any provision to the contrary, except in the event of derogation resulting from an express prior agreement made in writing.

1.3 These Terms and Conditions as amended from time to time can be found at the website <https://www.epmgroup.ru/>.

1.4 In case of differences between the terms of the Contract or Purchase order and the terms of these Terms and Conditions the terms contained in the Contract or Purchase order shall prevail.

Any general conditions applied by the Buyer but not expressly accepted in writing by EPM Europe GmbH, also where indicated in the Order and/or on the reverse of the Order, shall not apply.

2. Transfer of risks and title

Risks of damage and loss and costs related to the Goods shall transfer to the Buyer at the date of delivery according to the agreed INCOTERMS terms of delivery. The Buyer shall acquire the title of the Goods together with the risks.

3. Delivery and acceptance of the goods

3.1. The Buyer shall check the quality and quantity of the Goods without delay but no later than 45 calendar days from date of delivery according to INCOTERMS terms of delivery. Once this period has passed, the Goods shall be deemed accepted. No any claims in this regard could be filed by the Buyer.

3.2. The Buyer and/or the consignee (the plenipotentiary of the Buyer) shall accept the Goods by quantity according to the weight of the Goods indicated in the shipping document (railway bill or CMR or B/L and certificate of quality and quantity). The acceptance of the Goods as per number of cargo units shall be fulfilled by the Buyer and/or the consignee (by the plenipotentiary of the Buyer) at the time of delivery of the Goods on the basis of data indicated in the railway bill or CMR or B/L and in the certificate of quality and quantity.

In the event of making a claim for weight shortage of Goods determined by weighing, the whole consignment of Goods as per specification shall be re-weighed, with the obligatory indication in the report of number and identification of re-weighed packages/units, weight of every re-weighed package/unit, condition of packing, the method of weighing, the type and characteristics of the weighing machine, which was used to weight the Goods.

In case the total weight of Goods delivered under specification after re-weighing at the place of the Buyer is within the range of +/-0.5% of the total net weight indicated in the shipping document (certificate of quality and quantity), then the total net weight indicated in the shipping document shall be considered final and shall be accepted for further settlements between the Seller and the Buyer. In case the difference in total net weight of the Goods after re-weighing at the place of the Buyer exceeds 0.5% of the total net weight as per the shipping document, the Buyer shall have the right to make a claim on the weight shortage taking into account the indicated allowance (i.e. to subtract 0.5% of the total net weight indicated in the shipping document from the amount of the shortage).

The Seller shall reserve the right to carry out a secondary inspection of Goods at its own expense. Expenses for inspection by the independent inspection society shall be paid by the fault Party.

3.3. In case the Buyer reveals that quality of the Goods does not comply with the requirements of the Purchase Order or the Contract the Buyer shall suspend acceptance of Goods, ensure its isolation and safety and draw up the statement in which it shall specify the quantity of the examined Goods and the nature of the revealed incompliance. The Buyer shall provide immediately upon detection of discrepancy the notification to the Seller for the joint inspection of the Buyer and the Seller of the revealed discrepancy.

No later than 10 (ten) workdays days after obtaining the notification the Seller shall report to the Buyer on directing its representative for the joint inspection and time of the arrival.

In case the Seller is not able to direct its representative for the joint inspection the Seller shall have the right a) to obtain all technical data from the Buyer necessary to reveal the reasons for the quality incompliance; or b) to direct the independent third party to carry out the joint inspection.

At the request of the Seller the Buyer shall provide the Seller with all technical data necessary to reveal the reasons for the quality incompliance. The refusal of the Buyer to provide such data to the Seller grants the Seller the right to dismiss the claim of the Buyer.

In case of lack of any response from the Seller (provided that the Buyer ensures receipt of the notification by the Seller) within 10 (ten) workdays from the date of sending the notification the Buyer shall engage an independent third party to continue acceptance of Goods.

Expenses for the joint inspection by the independent third party shall be paid by the fault Party.

3.4. The guarantee for the quality of the Goods does not cover the defects which arose after the risks and title transfer including but not limited to: - improper transportation; - improper storage; - wrong installation or/and adjustment executed by the Buyer or the third party; - misuse of Goods; - modifications or changes into the Goods by the Buyer or the third party without written consent of the Seller; - force majeure circumstances; - non-compliance with service conditions including without limitation the corresponding power supply, temperature and humidity.

3.5. Claims concerning any lots of the supplied Goods shall not be considered as the reason for the Buyer to reject acceptance of other lots and do not give the Buyer the rights to withhold the payment to cover the claim demands.

4. Warranty

4.1. Seller warrants that: (a) it has title to all Goods and the right to transfer the title to such Goods to the Buyer; (b) all Goods delivered shall comply with all requirements of the respective Purchase Order/ Contract; (c) all Goods shall be of new and first class material and workmanship; (d) all Goods shall be free from defect; (e) the documentation provided by the Seller related to the Goods will be complete and correct; and (f) the Goods will be properly labelled and marked.

4.2. The Seller warrants that the Goods are in compliance with the product specifications applied by the manufacturer. The Seller shall inform the Buyer without delay about changes concerning the Goods, their availability and their quality, and agree on suitable measures on a case-by-case basis.

5. Responsibility and liability

5.1 In case the Buyer fails to pay for the Goods delivered or pays with violation of the due dates, the Buyer shall immediately upon the Seller's request within 5 (five) workdays from the receipt of the corresponding claim from the Seller to pay the Seller a penalty of 0,1% (nought point one tenth percent) of overdue amount for each day of delay.

5.2 In case the Seller is in default of delivery in time the Buyer shall be entitled to a penalty for the delay at a rate of 0,1% (nought point one tenth percent) of the cost of delayed Goods for each day of delay, up to a maximum total of 10% of the cost of delayed Goods.

5.3. Claims for damages and compensation of expenses of the Buyer against the Seller are excluded, irrespective of the cause in law, unless they are based on legal obligations on the Seller's part due to a violation of duties for which the Seller is responsible. Only claims for direct damages will be considered.

5.4. All claims of the Parties shall be made in writing in the English language, sent via post or electronic mails, supported by confirming documents and contain the number of PO or the Contract and the number of shipping document (railway bill or CMR or B/L) under which the Goods were supplied.

5.5. The failure of the Buyer to submit a quantity or quality claim within 45 (forty-five) calendar days shall be deemed as a waiver of its right. All claims of the Buyer - irrespective of their legal basis - shall become time-barred after a period of 45 (forty-five) calendar days since the date of the Goods delivery. For intentional or malicious actions the statutory period of limitation shall apply.

5.6. The Parties liability is limited to the value of the Purchase order/ Contract in any case.

5.7. No payments can be set off unilaterally. All offsets shall be accepted by both Parties in writing.

6. Force Majeure

6.1 The Parties shall not be held responsible for failure to perform or delay in performing any of their obligations if such failure or delay is due to unforeseeable events beyond their reasonable control, whether arising from natural causes or human agency ("Force Majeure"), including but not limited to acts of God, war, insurrection, epidemics, sabotage, labour disputes, strikes, lock-outs, shortages of labour, interruption or delays in transportation, fire, explosion, failure or delays of Seller's source of supply, shortage in material or energy, acts, orders or priorities of any authority or government (e.g. non-issuance of an export license or non-approval of service deliveries as well as the withdrawal of such an export authorization), and embargo.

6.2 The Party affected by Force Majeure shall notify in writing the other Party within two weeks following the occurrence of any event of Force Majeure citing this Article in said notice and shall supply all relevant information about its effects on the performance of its contractual obligations.

6.3 Unless mutually agreed to in writing, the Party unable to perform due to Force Majeure is temporarily excused from performance while the incident of Force Majeure is occurring and obligated to perform once the incident ends. Such Party shall not be subject to damage claims.

6.4. If the Seller is prevented either directly or indirectly from performing any of its obligations under these Terms and Conditions, including without limitation, making a delivery of the Goods or any part of the Goods by reason of Force Majeure it shall be entitled, at its option, by notice to the Buyer, either to: (a) extend the time for delivery of the Goods for a reasonable period; or (b) subject to refunding the Buyer for any payment already made to the Seller in respect of those particular Goods (if any), terminate the Purchase Order in its relevant part, and the Buyer shall not have any claim against the Seller for damages or any other remedy for breach of obligations.

6.5. In case the duration of Force Majeure exceeds six months, the Parties will discuss with each other and each Party will have the right to terminate this Agreement immediately. Contractual obligations performed shall be remunerated. Remuneration already paid shall be refunded, however reduced by the accrued cost and expenses of the contractual obligations performed.

6.6. Any Party shall lose the right to invoke Force Majeure in case Force Majeure circumstances have commenced before the Purchase order/ Contract or in case the Party failed to comply with the provisions stated in this Section.

7. Governing law and dispute resolution

7.1 All agreements with the Buyer as well as these General Terms and Conditions shall be governed by and construed in accordance with the laws of the Federal Republic of Germany.

7.2 All disputes arising in connection with the Contract or Purchase order or their validity shall be finally settled in accordance with the Arbitration Rules of the German Institution of Arbitration (DIS) without recourse to the ordinary courts of law. The place of arbitration is Berlin, German. The number of arbitrators is one.

7.3. All arbitration costs as well as the reasonable lawyers' fees shall be borne by the non-prevailing party.