

## GENERAL SALES CONDITIONS

### 1. Quotations

Quotations which do not stipulate an acceptance date are not binding.

### 2. Validation of contract

The contract is deemed valid when, on receipt of an order, ETEL SA. confirms its acceptance in writing. Verbal agreements are valid only if they are confirmed in writing.

### 3. Scope and execution of contract

The scope and execution of the contract shall be as specified in ETEL SA confirmation of order. Material or work not referred to therein shall be charged separately.

### 4. Technical documents

4.1 Technical documents, such as drawings, descriptions, illustrations and the like, and all weight data, shall serve as an approximate indication only, provided they have not expressly been specified as binding. If not binding, ETEL SA. reserves the right to make any alterations considered necessary.

4.2 Technical documents supplied by ETEL SA. are to be treated in confidence by the Buyer. They remain ETEL SA.'s exclusive property and may be neither copied nor reproduced nor communicated to a third party in any way whatever nor used for the construction of the goods or parts thereof. They may be used for operation and maintenance.

4.3 All documents submitted with quotations which do not result in an order shall be returned to ETEL SA. on request.

### 5. Regulations in force at destination

The Buyer must inform us of all laws, governmental and other regulations, which must be observed during the execution of the contract.

### 6. Price

6.1 Prices are ex-works ETEL SA. (Incoterms 2020), packing excluded, in freely available Swiss Francs or any agreed currency, without any deductions, whatsoever. All additional costs, such as charges for carriage, insurance, fees for export, transit, import and other permits and certifications shall be borne by the Buyer. Buyer is also liable for all taxes, fees, customs duties and other charges. If ETEL SA. has included in its offer or contract price or indicated in its confirmation of order the charges for carriage, insurance and other additional costs, ETEL SA. reserves the right to adjust its prices should the tariffs, on which they are based, be modified.

6.2 Price adjustments after validation of the contract are made provided that:

- sliding prices have been agreed,
- the delivery time is subsequently extended for one of the reasons stated in section 9.2,

- the extent of the agreed delivery of work involved has been changed, or,
- the goods to be delivered or execution of the contract have been changed because the information submitted to us by the Buyer did not correspond to the actual specifications or was incomplete.

### 7. Payment terms

7.1 Payments shall be made to ETEL SA. by the Buyer within thirty (30) days from date of invoice with no deductions for cash discount, expenses, taxes or dues of any kind, in accordance with the conditions stated in the confirmation of order. Payment is deemed effected when Swiss Francs or agreed currency have been made freely available to ETEL SA. in Switzerland. If partial consignments are invoiced, payment shall be made for each individual consignment in accordance with the agreed terms of payment.

7.2 The due dates of payment shall not be changed if transport, delivery, commissioning or acceptance of the goods is delayed or prevented by circumstances beyond ETEL SA.'s control. The Buyer shall not withhold or reduce payments on account of complaint, claims or counterclaims not accepted by ETEL SA. Payment shall also be made if unimportant parts are missing, which do not prevent the goods from being used, or if work beyond the scope of the contract has been requested by the Buyer.

7.3 If the Buyer does not observe the agreed due dates of payment, Buyer shall without formal notice be liable to pay interest on overdue amounts from the due date at a rate depending on the usual interest rate prevailing at the Buyer's domicile but exceeding the discount rate of the Swiss National Bank, valid at that time, by at least 4 per cent (%), provided that a higher rate of interest has not been agreed. Payment of such interest does not release the Buyer from his obligation to make payments on the agreed dates.

7.4 If at the request of the Buyer, shipment is postponed for more than thirty (30) days, payment will become due thirty (30) days after notice to Buyer that scheduled goods are ready for shipment.

### 8. Property right

The goods supplied by ETEL SA. remains as their property until full payment has been received. The Buyer agrees to take all measures necessary for the protection of ETEL SA's property.

### 9. Delivery time

9.1 The delivery time starts as soon as the contract has been validated, all official formalities, such as import and payment permits, have been obtained, payments due with the order have been made, any agreed securities furnished and the essential

technical points have been settled. The delivery time shall be deemed duly observed if the goods are ready at ETEL SA. by the specified schedule.

- 9.2 The delivery time shall be reasonably extended:
- if the information required by ETEL SA. to execute the order is not received in time or if subsequent changes which delay delivery are made by the Buyer,
  - if hindrances occur which, despite its due care, ETEL SA. cannot avoid, such as epidemics, mobilisation, war, riots, strikes, picketing, lock-outs, serious breakdowns, accidents, labour conflicts, delayed or deficient delivery of necessary raw materials or semi-manufactured and manufactured products, the need to scrap important components, official or other measures of whatever kind, transport difficulties, natural catastrophes,
  - if the Buyer is behind schedule with the work he has to carry out, or late in fulfilling his contractual obligations, in particular if he fails to observe the payment terms.

9.3 The payment of liquidated damages for late delivery can only be imposed when it has been expressly agreed upon in writing and when it can be proved that the delay is ETEL SA's fault and as far as the buyer can show that he has suffered a loss due to late delivery. Should ETEL SA., however, put a replacement at the Buyer's disposal, liquidated damages cannot be imposed.

9.4 The payment of liquidated damages for late delivery. If such have been agreed upon, shall for each full week's delay not exceed ¼ per cent, an din total not exceed 5 per cent of the sales price ex-works ETEL SA. of the delayed part of the goods (i.e. excluding all expenses for packing, customs duties, dues of all kinds, erection, etc.). No liquidated damages will be due until the delivery is more than one (1) month late.

## 10. Testing and acceptance of goods

- 10.1 Testing of the goods before shipment is carried out in accordance with ETEL SA's test procedures. Additional tests must be agreed specifically in the contract specification and shall be charged to the Buyer unless included in ETEL SA's offer or contract price.
- 10.2 The Buyer shall examine the goods within a reasonable time and inform ETEL SA. immediately in writing of all defects and deficiencies for which ETEL SA. is responsible according to its contractual obligations. If the Buyer omits to do this within ten (10) days after arrival of shipment, the goods shall be deemed to have been accepted.
- 10.3 Acceptance tests at ETEL SA. are carried out only if they have been agreed in writing with the Buyer. As far as circumstances allow, such tests will be carried out in ETEL SA's factory. If, for reasons beyond ETEL SA's control, the acceptance tests cannot be carried out within the specified time, the

qualities to be determined by these tests shall be deemed acceptable.

- 10.4 If it is found from one of the aforementioned tests that the goods do not fulfil the terms of the contract, the Buyer shall without delay make available to ETEL SA. suitable opportunity to remedy any deficiency.
- 10.5 The Buyer shall have no other rights in case of any deficiency, in particular to claim damages and to cancel the contract.

## 11. Packing

Packing is not returnable. However, if it is required to be re-useable in the contract, it shall be returned freight paid by the Buyer.

## 12. Returned products

Products cannot be returned by Buyer except with authorisation from ETEL SA., and ETEL SA. accepts no responsibility for products returned without such authorisation. Furthermore, in order for the notice of rejection to be effective, it must also specify the reason why the products are being returned. When return of such products is authorised by ETEL SA., shipping charges on said returned products are to be prepaid F.O.B. destination unless otherwise noted by ETEL SA. in its authorisation to return. ETEL SA. shall not issue credit on any product which has been altered or defected in any way or upon which additional operations have been performed.

## 13. Transfer of use and passing of risk

The benefit and the risk of the goods involved are transferred to the Buyer not later than the date of their leaving ETEL SA.'s works, even if delivery is freight paid, CIF, FOB or under similar clauses, or if transport is arranged and supervised by us. If dispatch is delayed or prevented by the Buyer, the goods will be stored at the Buyer's expense and risk.

## 14. Transport and insurance

- 14.1 Special requests concerning forwarding and insurance must be made known to ETEL SA. in due course. In the absence of specific instructions, ETEL SA. will select the carrier. The goods are transported at the Buyer's expense and risk. Complaints regarding transport shall be submitted by the Buyer to the last carrier immediately on receipt of the goods or shipping documents.
- 14.2 It is up to the Buyer to take out insurance against damage of any kind. Even if insurance cover is arranged by ETEL SA., it shall be taken out on behalf of the Buyer and at his expense and risk.

## 15. Setting to work

- 15.1 In any cases requiring travel and hotel expenses of our staff, including transport expenses for commissioning of goods, such expenses shall be borne by the Buyer.
- 15.2 Setting to work will be invoiced separately.

**16. Guarantee**

- 16.1 During the guarantee period, ETEL SA. shall undertake, upon written request of the Buyer, to repair or replace at its discretion and as soon as possible any parts of the goods delivered which can be proved to be damaged or unfit due to bad material, faulty design or poor workmanship. Replaced parts shall become ETEL SA.'s property.
- 16.2 ETEL SA. shall bear the costs only of repairing or replacing the defective parts in its factory. If Buyer requests repairing or replacing products at site, all additional costs arising therefrom particularly travel expenses shall be borne by the Buyer.
- 16.3 The Buyer shall have no other rights in case of deficiencies in the goods delivered, in particular claims for damages and cancellation of the contract.
- 16.4 The guarantee period is 36 months. It begins when the goods are ready for dispatch or at the end of the setting in operation if it is performed by ETEL SA.  
If dispatch or commissioning are delayed for reasons beyond ETEL SA's control, the guarantee period shall end not later than 30 months after the goods are ready for dispatch.
- 16.5 For replaced parts, the guarantee period begins a new. It ends not later than 36 months after the beginning of the initial guarantee period for the main goods or, if dispatch, or commissioning are delayed for reasons beyond ETEL SA's control, not later than 36 months after the main goods are ready for dispatch.
- 16.6 The guarantee does not cover damages resulting from normal wear and tear, improper maintenance, failure to observe the operating instructions, incorrect operation excessive loading, the use of unsuitable material, the influence of chemical or electrolytic action, the action of over voltages and lightning, from corrosion, erosion, cavity and such like, unsatisfactory foundation, building or erection work not undertaken by us and other reasons beyond our control.
- 16.7 The guarantee expires if the Buyer or a third party undertakes alterations or repairs to the goods without ETEL SA's written consent, or if the Buyer does not immediately take appropriate steps to prevent any damage from becoming more serious and to enable ETEL SA. to rectify the defect.
- 16.8 If on expiry of the guarantee period the Buyer has made no specific written claims under the terms of the guarantee, ETEL SA. is released from its guarantee obligations.
- 16.9 ETEL SA. accepts liability for goods supplied by subcontractors only to the extend of their guarantee obligations.
- 16.10 There is no warranty that the products shall be delivered free from any claim of any third person by way of infringement. There is no undertaking by ETEL SA. with respect to patent or trade-mark infringement.

The foregoing warranty is in lieu of and excludes all other expressed or implied warranties of merchantability or fitness, or otherwise.

**17. Cancellation, change, reduction in amount or suspension of deliveries**

Orders are not subject to cancellation, change, reduction in amount, or suspension of deliveries except with ETEL SA's consent and upon terms which indemnify it against loss. In the event Buyer cancels any purchase order or portion thereof, or fails to meet any obligation hereunder causing cancellation or re-scheduling of any purchase order or portion thereof, or requests a re-scheduling or schedules shipments and such request is accepted by ETEL SA., Buyer agrees to pay at ETEL SA's option, cancellation or reschedule charges as follows :

- 17.1 any and all partial preparation charges then due or which may become due;
- 17.2 Sixty (60) to ninety (90) days prior to schedule delivery. Buyer pays for all unique components parts at fair market value.
- 17.3 Forty five (45) to sixty (60) days prior to schedule delivery. Buyer pays for all unique component parts and work in process at fair market value.
- 17.4 Zero (0) days to forty five (45) days prior to scheduled delivery. Buyer cannot cancel or re-schedule and goods will be shipped and billed to prior scheduled delivery.
- 17.5 In the event that the Buyer does not accept shipment on the total purchase quantity within six (6) months ARO, ETEL SA. reserves the right to :
- 17.5.1 adjust unit price applicable to this shipped quantity and to invoice the Buyer for the accumulated differences.
- 17.5.2 charge re-scheduling fees. One re-schedule per purchase order will be allowed at no administrative fee during the initial six (6) months ARO, thereafter a CHF. 300.- charge per line item shall apply to each schedule change.

**18. Liability**

ETEL SA. undertakes to carry out the order in accordance with the terms of the contract and to fulfil its guarantee obligation. ETEL SA. shall not be liable to the Buyer for any further claims.

**19. Place of performance**

The place of performance is ETEL SA. both for itself and for the Buyer, even if delivery is made carriage paid, CIF, FOB or under similar clauses.

**20. Jurisdiction and law applicable**

- 20.1 The court of jurisdiction is in Neuchâtel, both for ETEL SA. and for the Buyer. However, ETEL SA. also reserve the right to appeal to the competent court in the Buyer's country.
- 20.2 The contract shall be governed by Swiss law.

20.3 In the event that any portion of this agreement shall violate any applicable statute, ordinance, or rule of law, such provision shall be ineffective to the extent of such violation without invalidating any other provision hereof.

## **21. Entire agreement**

Any of the terms and provisions of Buyer's purchase order which are inconsistent with the terms and provisions herein shall not be binding on ETEL SA. and shall not be considered applicable to the sale of the products covered in the contract between the parties. Unless Buyer shall notify ETEL SA. in writing within ten (10) days after receipt of this agreement, acceptance by the buyer of these terms and provisions shall be inferred and, in the absence of such notification, the shipment by ETEL SA. of the

goods covered herein shall be conclusively deemed to be subject to the terms and provisions herein. No modification hereof shall be valid unless by a written agreement with legal consideration representatives of ETEL SA. are not authorised to vary the terms and provisions herein set forth.

## **22. Assignment**

Neither party may assign any of its rights or obligations hereunder without the prior written consent of the other except that ETEL SA. shall have the right to assign to any company with which it is affiliated or to any corporation into which it shall be merged, with which it shall be consolidated, or by which it, or all substantially all of its assets, shall be acquired.