

GENERAL SALES and TRADING CONDITIONS OF CLiQ SwissTech AG and its Holding Companies

General conditions: Our orders are executed under the following terms and conditions which are part of each individual sales contract. Any terms to the contrary or differing terms or any other restrictions made by the purchasing party are not accepted. Any sales terms differing from these trading conditions – in particular the validity of the purchasing provisions by the purchasing party – require the express written acceptance. When using the delivered goods the user is required to observe any patent rights of third parties.

Offers: Our offers are without obligation. All purchases and agreements with us and with our field service, telephone orders and other arrangements are binding for us only insofar as they are confirmed by us or met by delivering the goods. By placing the order the party ordering accepts the present General Sales and Trading Conditions.

Pricing: All prices are based on the conditions existing in the field of customs clearance, freight and raw materials on the date when the order was placed, our price quotations to be understood ex works exclusive of VAT – unless endorsed otherwise. If our prices should change between the dates of the order confirmation and the delivery, the price invoiced is the one applicable on the date of delivery. Should a price increase occur the purchaser has the right, within two weeks, to withdraw from the purchase contract with regard to the quantity of which delivery has not yet been taken.

Shipment: Upon dispatch of the goods the risk of destruction or damage of the goods will pass to the purchasing party, even if the postage has been prepaid by us. Accordingly, any breakage and risk of transport will fall on the purchaser.

Delivery: We endeavour at all times to effect delivery as swiftly as possible, but cannot commit ourselves to a fixed delivery date and the quoted delivery terms and dates are without obligation, i.e. without legal commitment. We have the right to make partial deliveries. It is not possible to claim damages for delayed delivery. We are not bound to make further deliveries before any due invoices have been settled. Likewise, Acts of God of any kind, interruptions, fire damage, failure to obtain raw material, and any other causes which are not subject to our intention, and which might reduce, delay, or prevent the delivery, the acceptance or the consumption, or make them unreasonable, will, for the duration and extent of the disturbance, acquit from the obligation of delivery. If as a result of the interruption, the delivery and/or the acceptance will be surpassed by more than eight weeks, both parties have the right to withdraw from the contract.

Payment: Payment of the invoiced amount has to be effected within 10 days from the date of the invoice, without the deduction of discount. Payments are considered effected when the amount is finally disposable on one of the seller's accounts. If there are any invoices which are due, the payments received are used to settle the oldest unsettled accounts. In case of default we are entitled, without any particular announcement or respite, to charge past-due interests in the amount of EURIBOR plus 1.5% per month. Furthermore in case of delay in payment, all other unsettled receivables including those from bills, become due immediately, without regard to their date of expiry. In the case of delayed payment we are furthermore entitled to stop deliveries from current deals or to subject them to securities, or to collect the amount on delivery. The same applies if a substantial deterioration has occurred in the purchaser's pecuniary circumstances or if circumstances become known only after the order has been accepted, which make the granting of credit appear critical. In all such cases the consignee also reserves the right to use his retention of title and for this purpose to record and withdraw the purchaser's stock still available at the purchaser's premises. Beyond that, an extended retention of title is considered expressly agreed. As long as the purchaser is in default with his payments, our delivery commitment will be suspended. In case a specified delivery term is culpably surpassed, default in delivery will exist only after a reasonable respite has been set.

Properties of our goods and technical advice: The quality of our goods is in principle only determined by the properties described in the product descriptions and specifications. The technical advice given by a salesman regarding the utilization, either orally, in writing or by way of tryout, is made to the best of his knowledge, but is considered a noncommittal lead, and does not discharge the buyer from checking whether the product is suitable for the intended procedures and purposes.

Notification of defect: Notifications of defect and complaints of any kind must be claimed in writing without delay, but within five days after receipt of the goods at the latest. Complaints regarding product types, quantities and apparent transport damages must be recorded on the delivery notes. The obligation of furnishing proof lies with the purchaser. Rejected goods may be returned after our express consent only. The decisive argument for the contractual quality of the goods is their condition when leaving our stores. Any defects which cannot be detected within this period of time, even after careful scrutiny, have to be claimed upon detection without delay, immediately stopping the processing or manufacture, but 3 months after receipt of the goods at the latest. After expiry of this three-month period any warranty of fitness, for whatever reason, is excluded. The claims in respect of a defect made by the purchaser are limited to the right of subsequent replacement.

Enclosures: Our separate provisions apply to the use of the enclosures of our products. Insofar as we provide rented packaging we reserve the right in any case to charge the purchaser with the cost and rental incurred by us in the case of delayed return, i.e. if the customary unloading time is exceeded. The same applies in the case of damage to our rented packaging or if it is filled with foreign substances.

Warranty and product liability: All specifications regarding the suitability, workmanship and use of our products, technical advice and other details are given to the best of our knowledge, but do not discharge the purchaser from his own trials and tests. The purchaser has to examine the goods delivered without delay – as far as reasonable even by way of trial processing – for defects regarding the quality and purpose of use, and he has to file the appropriate claims, otherwise the goods are considered accepted. The warranty of properties is binding for us only to the extent expressly stated in writing.

In the case of justified complaints the party selling will provide for replacement deliveries. The purchaser has no right to claim damages beyond that. Any liability for consequential damages as a result of defects is expressly excluded by us. Defects in part of the goods delivered do not entitle to refuse the entire consignment.

Compensation: In the case of slightly negligent breach of duty by the seller, the purchaser has no right to claim compensation or damages, even of extra-contractual kind. The seller is liable for consequential damages and for damages not foreseeable at the making of the contract only in case of grossly negligent behaviour on the seller's part is involved. Our accountability for damages, irrespective of the legal basis, is limited to the invoiced value of the quantity of those goods delivered by us which are directly involved in the incident causing the damage.

Retention of title: All goods delivered by us will remain our property until full payment of all our receivables. Our title covers the products created by the processing of the goods under retention of title to their full value and thus the purchaser acts on behalf of the seller, without, however, having any claims out of this against the seller. If the goods under retention of title are processed together with any goods owned by third parties, or mixed or combined with such goods, the seller acquires joint ownership of the products created thereby in the proportion of the invoice value of the goods under retention of title.

Thereby the purchaser cedes to us in advance all and any claims resulting from the resale of the goods under retention of title, together with all ancillary and security titles, to cover all our claims.

The retention of title in the above-stated volume is considered agreed even if the purchaser makes any statements to the contrary when transmitting his purchase conditions.

The purchaser is not entitled to pawn, make security transfers or other charges. When reselling the goods the purchaser has to condition the transfer of ownership upon full payment of the goods by his clients.

Already now the purchaser cedes his receivables from third parties for payment to us, insofar as they result from the sale or processing of our goods, until full settlement of our receivables. If requested by us, the client has to provide us with the names of his customers and has to advise them in time of the cession.

Place of performance and jurisdiction: The place of performance for all deliveries and payments is Sargans. The exclusive place of jurisdiction is Sargans. For our affiliated companies the exclusive place of jurisdiction is their head office.

General provisions: Our General Sales and Trading Conditions are subject to Swiss law with the exception of UNCITRAL and the Swiss conflict of law rules.

Should any particular terms of these Sales and Trading Conditions become ineffective either in total or in part, all other terms of these Sales and Trading Conditions will remain in effect.

The parties have to replace any ineffective term by such a term which comes nearest to the economic purpose of the ineffective term and which is effective.