

# General conditions of sale

## 1. Scope and Applicability

- 1.1 These General Terms and Conditions of Sale of Rittmeyer AG ("RITTMAYER") govern the conclusion, content and performance of contracts for the sale of equipment, hardware and software integrated therein ("PRODUCT" or "PRODUCTS") and contracts for work and services ("WORK" or "WORKS") between RITTMAYER and the purchaser ("PURCHASER").
- 1.2 They shall be deemed to have been accepted by PURCHASER upon receipt by RITTMAYER of PURCHASER's request for quotation, upon PURCHASER's order or upon RITTMAYER's order confirmation. General terms and conditions of the PURCHASER or agreements deviating from these General Terms and Conditions of Sale shall only be valid if they have been accepted in advance by RITTMAYER IN writing.

## 2. Offers, Orders, Cancellations and Order Changes

- 2.1 Offers without a time limit for acceptance are non-binding.
- 2.2 A contract between RITTMAYER and the PURCHASER shall only be concluded upon receipt of the written order confirmation from RITTMAYER.
- 2.3 Orders confirmed by RITTMAYER cannot be cancelled by the PURCHASER. Changes to orders require written confirmation by RITTMAYER clause 2.2 accordingly.

## 3. Information Obligation of the PURCHASER about the Regulations Applicable in the Country of Destination

At the time of the order at the latest, the PURCHASER shall inform RITTMAYER of all applicable statutory, official and other regulations and standards relating to the PRODUCTS and SERVICES TO be supplied by RITTMAYER or to their operation, as well as of the relevant health and safety regulations. If RITTMAYER does not receive the relevant information in due time, the PRODUCTS and SERVICES supplied by RITTMAYER shall comply with the regulations and standards applicable at RITTMAYER's place of business. Claims of the PURCHASER against RITTMAYER due to omitted or untimely information are excluded.

## 4. Plans and Technical Documentation

RITTMAYER reserves all rights to plans and technical documents which it hands over to the PURCHASER. The PURCHASER acknowledges these rights and is obliged not to make the documents accessible to third parties in whole or in part without the prior written authorization of RITTMAYER or to use them outside the purpose for which they were handed over to him.

## 5. Prices

- 5.1 All prices are net, FCA Baar, Switzerland, according to Incoterms 2020, exclusive of VAT, without any deductions and in Swiss Francs, Euros or US Dollars as indicated in the order confirmation.
- 5.2 We reserve the right to adjust the price if the PURCHASER subsequently changes the nature or scope of the PRODUCTS or WORKS ordered or in the event of delays in delivery for the reasons set out in clause 7.2.

## 6. Terms of Payment

- 6.1 Invoices shall be payable net in Swiss francs within 30 days from the date of invoice without any discount. No payments may be withheld and the PURCHASER waives the right to set off claims against counterclaims which have not been expressly acknowledged by RITTMAYER IN advance.
- 6.2 If the PURCHASER does not meet the agreed payment dates, he shall be in default from the due date without reminder and shall owe interest on arrears of 5% p.a.. RITTMAYER reserves the right to claim further damages. Furthermore, RITTMAYER is entitled at any time until full payment of the purchase price to withhold performance, to assert retention of title to the delivered PRODUCTS or movable WORKS, to demand security for the purchase price by issuing a bank guarantee payable on first demand by a first-class Swiss bank at the expense of the PURCHASER and/or to withdraw from the contract and to reclaim the delivered PRODUCTS or movable WORKS against full indemnification. This shall also apply in the event of insolvency of the PURCHASER.

## 7. Delivery Time and Date

- 7.1 Unless otherwise agreed in writing, the delivery period or delivery date stated in the order confirmation shall apply to the provision of the ordered PRODUCTS or movable WORKS at the business premises of RITTMAYER and shall be based on the circumstances at the time the period or date is stated. The period shall commence when the PURCHASER has fulfilled the preparatory actions incumbent upon it and RITTMAYER is in possession, in particular, of all commercial and technical documents required for the uninterrupted and smooth performance of its services.
- 7.2 The delivery period shall be extended accordingly:
  - a) if the PURCHASER or third parties are in arrears with the preparatory work to be carried out by them or are in default with the performance of their contractual obligations, in particular if the PURCHASER fails to comply with the terms of payment;
  - b) if the information required for the performance of the contract is not received by RITTMAYER IN due time or is subsequently changed by the PURCHASER;
  - c) if obstacles (e.g. due to force majeure) occur at RITTMAYER through no fault of RITTMAYER or at third parties.
- 7.3 In the event of late delivery due to the reasons mentioned in clause 7.2, the PURCHASER shall in no case be entitled to cancel the order or to claim compensation for direct or indirect damage suffered or for loss of profit.

## **8. Default of Acceptance**

- 8.1 The PURCHASER must commission a carrier at the agreed delivery date and place. In the event of a delay in the acceptance of the PRODUCTS or the movable WORKS, the PURCHASER shall indemnify RITTMAYER for all storage and further costs incurred thereby.
- 8.2 If the PRODUCTS or movable WORKS ordered by the PURCHASER ARE not called off in the quantity specified, RITTMAYER shall be entitled to withdraw from the contract, to demand the return of the PRODUCTS or movable WORKS already delivered and to claim damages. Alternatively, RITTMAYER may demand from the PURCHASER a guarantee issued by a first-class Swiss bank, payable on first demand, for the full price as consideration for the delivery of the remaining PRODUCTS or WORKS.

## **9. Transfer of Benefit and Risk, Transport, Insurance**

- 9.1 For the transfer of benefit and risk, transport, customs clearance and insurance of the PRODUCTS and the movable WORKS, FCA Baar, Switzerland, shall apply in accordance with Incoterms 2020.
- 9.2 Clauses 6.2 and 8.2 are expressly reserved for the transfer of benefit and risk.

## **10. Testing and Acceptance**

- 10.1 The PURCHASER shall inspect the PRODUCTS within ten working days after delivery pursuant to clause 7.1, in case of assembly by RITTMAYER pursuant to clause 15 within five working days after completion of the assembly, and shall immediately notify RITTMAYER in writing of any defects. WORKS shall be accepted within five working days of handover. For movable WORKS, the date of handover shall be determined in accordance with clause 7.1. If the PURCHASER fails to inspect the PRODUCTS in due time, to accept the WORKS in due time or to give notice of defects in due time, they shall be deemed to have been accepted without reservation. The same shall apply if PRODUCTS or WORKS are used productively without prior inspection or acceptance.
- 10.2 Defects notified in due time shall be remedied by RITTMAYER within a reasonable period of time at its sole discretion either by rectification or replacement delivery. RITTMAYER reserves the right to make changes in design and execution in the event of rectification. Other rights in respect of defects are expressly excluded.
- 10.3 Based on special agreement, an acceptance test shall take place in the presence of RITTMAYER.

## **11. Warranty and Liability**

- 11.1 Subject to clause 3, RITTMAYER warrants for a period of twelve months that the delivered PRODUCTS and WORKS are free from legal defects and defects in material or workmanship which nullify or substantially reduce their fitness for the intended use. The warranty period shall commence for PRODUCTS at the end of the delivery period or on the delivery date pursuant to clause 7.1, for PRODUCTS which the PURCHASER has commissioned RITTMAYER to assemble pursuant to clause 15 after completion of the assembly and for WORKS from the date of acceptance. Unless expressly provided otherwise in RITTMAYER's written order confirmation, any warranty other than the present warranty or any assurance is excluded. There shall be no warranty for wear parts or for defects in PRODUCTS and WORKS resulting from normal wear and tear.
- 11.2 The warranty expires,
- a) if the PURCHASER does not give notice of defects in writing immediately after discovery of the defect;
  - b) if the PURCHASER himself or third parties commissioned by him carry out changes or repairs;
  - c) in case of improper use, treatment or maintenance;
  - d) if the PURCHASER, if a defect has occurred, does not immediately take all appropriate measures to mitigate the damage and does not give RITTMAYER the opportunity to remedy the defect;
  - e) if the PURCHASER does not immediately provide RITTMAYER with the PRODUCTS or SERVICES complained about for inspection.
- 11.3 If the notice of defect is justified, RITTMAYER shall remedy the defect within a reasonable period of time at its sole discretion either by repair or by replacement. Replaced PRODUCTS or movable WORKS or parts thereof shall be taken back by RITTMAYER without compensation.
- 11.4 The warranty period does not start anew with the rectification of the defect. Warranty claims shall expire with the third remedy of the same defect in the PRODUCT or WORK.
- 11.5 For services of sub-suppliers requested by the PURCHASER, RITTMAYER shall provide warranty only within the scope of the warranty obligations of the sub-suppliers concerned.
- 11.6 Further or other warranty claims of the PURCHASER than those provided for in this clause 11 are expressly excluded.
- 11.7 RITTMAYER shall only be liable for damages caused by gross negligence or intent. Liability for indirect damages, consequential damages as well as pure financial losses such as loss of profit shall be excluded. Liability shall also be limited to twice the value of the PRODUCT or WORK affected by the defect. Any liability shall be excluded for assembly services pursuant to clause 15, which RITTMAYER performs according to the instructions and/or supervision of the PURCHASER. The legal liability for bodily injury remains reserved.

## **12. Confidentiality**

- 12.1 The PURCHASER undertakes not to use the business secrets and business or technical information made available to third parties, irrespective of whether they have been marked as confidential or not. Trade secrets and business or technical information shall be kept secret from third parties as long as they are not demonstrably public knowledge or the PURCHASER has not been authorized by RITTMAYER to disclose them. The PURCHASER may disclose the business secrets and business or technical information internally only to those persons who must necessarily be consulted for their use. The PURCHASER shall not be permitted to reproduce the trade secrets and business or technical information, to use them commercially or to reverse engineer PRODUCTS or WORKS without the prior written consent of RITTMAYER.
- 12.2 The PURCHASER shall inform RITTMAYER immediately if it becomes aware that trade secrets and business or technical information have been disclosed to third parties. The PURCHASER shall do everything in its power to prevent further dissemination and to arrange for the deletion of the trade secrets and business or technical information.

12.3 Upon RITTMAYER's request, the PURCHASER shall return to RITTMAYER, delete or destroy all trade secrets and business or technical information. RITTMAYER reserves all rights to trade secrets and business or technical information (esp. copyrights).

12.4 The PURCHASER's confidentiality obligations under this clause 12 shall survive the termination of the contract.

### **13. Data Protection**

13.1 The PURCHASER shall only process the necessary personal data which are required for the order. The PURCHASER is responsible for compliance with the applicable data protection laws.

13.2 The PURCHASER is responsible for the safe storage of personal data.

### **14. Software**

If the WORK or PRODUCT also includes software, the PURCHASER shall be granted the non-exclusive right to use the software together with the WORK or PRODUCT. The PURCHASER shall not be entitled to process, reverse engineer or make copies of the software. In case of infringement, RITTMAYER may revoke the right of use.

### **15. Assembly and Installation**

If RITTMAYER has also been commissioned with the assembly and/or Installation of the PRODUCTS or WORKS (hereinafter "ASSEMBLY"), the following terms and conditions shall apply in addition:

#### **15.1 Preparations, Auxiliary Personnel, Auxiliary Means**

15.1.1 The PURCHASER shall properly carry out the structural and other preparations necessary for the ASSEMBLY in due time and at its own expense and shall provide the necessary aids (e.g. tools) free of charge. The PURCHASER shall instruct RITTMAYER and its personnel about its installation and to point out any special features and dangers.

15.1.2 The PURCHASER shall provide RITTMAYER's personnel with a lockable room for the storage of building materials, tools, etc. and shall store the PRODUCTS delivered by RITTMAYER in a professional manner until their installation.

15.1.3 Upon RITTMAYER's request, the PURCHASER shall provide the necessary manpower at its own expense.

#### **15.2 Delays, Work on the ORDER of the PURCHASER, Tampering with the Equipment**

15.2.1 If the start or execution of ASSEMBLY services or the commissioning is delayed through no fault of RITTMAYER, the additional costs incurred by RITTMAYER as a result shall be invoiced additionally.

15.2.2 During ASSEMBLY, a plant operator designated by the PURCHASER must be on site. The plant operator is responsible for all manipulations carried out on the plant.

#### **15.3 Prices of ASSEMBLY Services**

15.3.1 For ASSEMBLY services in Switzerland, the prices of the current "Tariffs for Service (Installation, Commissioning, Troubleshooting in Switzerland)" of RITTMAYER shall apply. The prices for ASSEMBLY services abroad shall be based on a special written agreement.

15.3.2 If RITTMAYER performs INSTALLATION services for an agreed lump sum in Switzerland, any additional services not caused by RITTMAYER shall be invoiced in accordance with the current "Tariffs for Service (Installation, Commissioning, Troubleshooting in Switzerland)".

### **16. Maintenance and Revision**

Maintenance and revision of the PRODUCTS and/or WORKS shall be the subject of a maintenance contract to be concluded separately. Clause 11 concerning the rectification of defects remains reserved.

### **17. Governing Law and Jurisdiction**

17.1 Contracts between RITTMAYER and the PURCHASER shall be governed exclusively by substantive Swiss law to the exclusion of its conflict of laws rules and in particular the Federal Act of 18 December 1987 on Private International Law. The Vienna Sales Convention is expressly excluded and shall not apply.

17.2 To the extent permitted by law, the exclusive place of jurisdiction for all disputes arising out of or in connection with a contract between RITTMAYER and the PURCHASER shall be at the registered office of RITTMAYER. However, RITTMAYER shall be free to invoke other courts.