

## General Conditions of Supply

### 1. General

- 1.1 These General Conditions of Supply apply to all purchase contracts containing a reference to said Conditions. They also apply to ongoing business relations between the parties, in particular all further services provided by Trunz at a later date in connection with the supplies, such as repair and service work and supply of spare parts and consumables.
- 1.2 For the purposes of these General Conditions of Supply, Trunz Water Systems AG (vendor) is referred to as Trunz and Trunz' customer (buyer) as the Customer.
- 1.3 The contract between Trunz and the Customer shall be deemed to have been entered into either upon signature by both parties of a purchase contract, or, if no such contract is signed, on receipt of Trunz' written confirmation that it accepts the order (confirmation of order).
- 1.4 Offers not subject to a specified expiry date shall be binding for a period of 3 months.
- 1.5 Any provisions made by the Customer that are contrary to these General Conditions shall only be valid if they have been expressly accepted, in writing, by Trunz.

### 2. Scope of supplies and services

- 2.1 Trunz' supplies and services are exhaustively specified in the purchase contract and/or confirmation of order and any appendices thereto. Trunz is entitled to make any changes which lead to improvements provided such changes do not result in a price increase.
- 2.2 Unless agreed otherwise, brochures and catalogues are not binding. Data in technical documents is only binding if and in so far as expressly mentioned in the purchase contract or confirmation of order.

### 3. Technical documents

Each party to the contract retains all rights to technical documents provided to the other. The party receiving such documents recognizes these rights and shall - without previous written consent of the other party - not make these documents available to any third party, either in whole or in part, nor use them for purposes other than those for which they were handed over.

### 4. Regulations in force in the country of destination and safety devices

- 4.1 All new plant, machinery and spare parts shall as a minimum comply with the regulations governing operation, illness and accident prevention in force in the manufacturer's country at the time of manufacture. Trunz gives no guarantee that the equipment purchased will meet the requirements for import into the country of destination. It advises the Customer to check before signing the purchase contract whether it may import the items into the country of its choice. At the Customer's request, Trunz shall issue an appropriate declaration of conformity or manufacturer's declaration.
- 4.2 The Customer shall, at the latest when placing the order, draw the attention of Trunz to additional standards and regulations that apply in the country of destination. Any costs incurred as a result of ensuring conformity with such regulations will be invoiced separately.

### 5. Prices

- 5.1 Unless otherwise agreed upon, all prices shall be deemed to be net ex works Arbon, Switzerland (EXW in accordance with Incoterms 2000), packing for sea, land or air transport excluded, without any deduction whatsoever.
- 5.2 Prices may change after signature of the contract:
  - a) if a subsequent change of delivery time is made on grounds which are beyond the control of Trunz or if a new delivery time is agreed upon, or
  - b) if the scope of the agreed supplies or services has changed, or
  - c) if there are changes in regulations at the delivery point which make changes of the design or configuration of the

supply necessary.

### 6. Terms of payment

- 6.1 Payments shall be made by the Customer at Trunz' domicile according to the agreed terms of payment, without any deduction for cash discount, expenses, taxes, levies, fees, duties, and the like.
- 6.2 Unless indicated otherwise, all payments shall be due within 30 days of the invoice date, without any cash discount or other deductions.
- 6.5 Payment deadlines must also be observed if transport, delivery, assembly, start-up or acceptance of the supply or service are delayed, rendered impossible or otherwise considerably impaired for reasons beyond the control of Trunz, or if parts are missing or subsequent work proves necessary which does not prevent the use of the supplies.
- 6.7 If the Customer fails to observe the agreed payment deadlines, he shall be required, without the need for a reminder to be sent, to pay interest in the amount of 1.0 percent per month from the time of the agreed due date; however, this shall not in any way affect the due date of the debt.

### 7. Reservation of title

- 7.1 Trunz shall retain ownership of all its supplies until such time as it has received payment in full as per the contract.
- 7.2 The Customer shall cooperate in any measures necessary for the protection of Trunz' title. Moreover, upon entering into the contract it authorizes Trunz to enter or notify the reservation of title in the required form in public registers, books or similar records at the Customer's cost, all in accordance with relevant national laws, and to fulfil all corresponding formalities without the Customer's cooperation.
- 7.3 During the period of the reservation of title, the Customer shall, at its own cost, maintain the supplies and insure them for the benefit of Trunz against theft, breakdown, fire, water and other risks. It shall further take all measures to ensure that Trunz' title is in no way prejudiced.

### 8. Delivery times

- 8.1 Agreed delivery times shall be binding. The delivery time shall be deemed to have been met if, by the appropriate time, notification of readiness for shipment has been sent to the Customer. It falls upon the Customer to complete all formalities in time, such as obtaining import, export, transit and payment permits, in order that delivery can actually take place once the supplies are ready for shipment.
- 8.2 In order for the delivery time to be honored, the Customer must fulfill its contractual obligations. Trunz shall be entitled to withhold delivery if the Customer has not made all the payments and furnished any securities provided for at the time of signature of the contract and stipulated as being required prior to delivery.
- 8.3 The delivery time is reasonably extended:
  - a) if the information required by Trunz for performance of the contract is not received in time, or if the Customer subsequently changes it thereby causing a delay in the delivery of the supplies or services;
  - b) if hindrances occur which Trunz cannot prevent despite using the required care, regardless of whether they affect Trunz itself, the Customer or a third party. Such hindrances include, but shall not be limited to, epidemics, mobilization, war, revolution, serious breakdown in the works, accidents, labor conflicts, late or deficient delivery by subcontractors of raw materials, semifinished or finished products, deficient manufacture, the need to scrap important work pieces, official actions or omissions

- by any state authorities or public bodies, natural catastrophes, acts of God;
- c) if the Customer or a third party appointed by it is behind schedule with work it has to execute, or with the performance of its contractual obligations.
- 8.4 The Customer shall be entitled to claim liquidated damages for delayed delivery in so far as it can be proved that the delay has been caused through the intent or gross negligence of Trunz and that the Customer has suffered a damage as a result of such delay. Damages for delayed delivery shall not exceed 1/2 per cent for every full week's delay and shall in no case whatsoever altogether exceed 5 per cent of the price of the part of the supplies in delay. No damages at all shall be due for the first four weeks of delay.
- 8.5 If the delay is in excess of 16 weeks the Customer may grant Trunz a reasonable extension, in writing. If such extension is not observed for reasons within Trunz' control, the Customer shall be entitled to terminate the contract and to claim refund of the money already paid against return of the deliveries supplied.
- 8.6 Should Trunz be unable to deliver the supply within a period acceptable to the Customer, it may give written notice to terminate the contract. In this event, it shall owe the Customer, if applicable, the damages provided for in Clause 8.4. and must refund any advance payment received against return of all supplies already delivered.
- 8.7 Any delay of the supplies or services does not entitle the Customer to any rights and claims other than those expressly stipulated in this Clause 8.
- 9. Passing of benefit and risk**
- 9.1 The benefit and the risk of the supplies shall pass to the Customer by the date of their leaving the works.
- 9.2 If dispatch is delayed at the request of the Customer or due to reasons beyond Trunz' control, the risk of the supplies shall pass to the Customer at the time originally foreseen for their leaving the works. From this moment on, the supplies shall be stored and insured for the account and at the risk of the Customer.
- 10. Shipment, transport and insurance**
- 10.1 Transport shall be for the Customer's account and risk. Trunz must be advised in good time of any special requirements in terms of shipment, transport and insurance.
- 10.2 Complaints regarding shipment or transport shall upon receipt of the supplies be immediately submitted by the Customer to the last carrier.
- 10.3 The Customer shall be responsible for taking insurance against risks of any kind.
- 11. Assembly and start up**
- 11.1 Provided Trunz has undertaken to assemble and start up the supply, the assembly date will be agreed in advance with the Customer. If the Customer subsequently wishes to postpone the agreed assembly date or if the date has to be postponed for other reasons that are beyond the control of Trunz, a new date will be agreed; in this case, special account must be taken of Trunz' capacities.
- 11.2 Electrical network, as well as pressurized air and other supply and disposal units must be ready and mounted on those locations as specified and fixed on Trunz' plan so that Trunz' service technician does not have to carry out any work other than the actual assembly and start-up of the machine.
- 11.3 All additional expenses, including time spent waiting by Trunz personnel, incurred because the necessary preparations have not been completed, will be invoiced to the Customer under the usual terms. Likewise, all additional work carried out by Trunz' personnel over and above the assembly and start up work will be invoiced to the Customer under the usual terms.
- 12. Acceptance test and acceptance**
- 12.1. In the case of delivery only**
- 12.1.1 The Customer must check the supplies delivered by Trunz without delay, but at the latest within one month of dispatch ex-Trunz' works (in the case of ocean freight, within no more than 3 months of dispatch ex-Trunz works) and advise Trunz immediately in writing of any defects. If the Customer fails to do this, the supply shall be deemed to have been approved in respect of defects

that are evident on proper inspection.

- 12.1.2 Trunz must remedy the defects of which it is advised as quickly as possible, and the Customer must give it the opportunity to do so. Once the defects have been remedied, an acceptance test shall be carried out at the request of the Customer or of Trunz.

**12.2 In the case of assembly and start up by Trunz**

- 12.2.1 After delivery to the Customer, the supplies are assembled and started up by Trunz in the presence of the Customer. This is followed by the joint acceptance inspection of the plant or machinery by the parties.

- 12.2.3A written report must be produced of the results of the acceptance test, even if the Customer intends to refuse the acceptance.

- 12.2.4 If the acceptance test reveals serious defects which rule out the commencement of production with the supply, the Customer may refuse to accept the supply concerned. Refusal to accept the supply must be recorded in the written report, and the defect stated. Trunz will remedy the defects within a reasonable period and the Customer must give it the opportunity to do so. Once the defects have been remedied, a fresh acceptance test must be carried out.

- 12.2.5 If the acceptance test reveals no defects, or only minor defects, and full or partial production can therefore be commenced with the supply (if need be, with certain limitations), the acceptance shall be deemed complete. This must be recorded in the written report, and any defects stated. Trunz will remedy the defects within a reasonable period and the Customer must give it the opportunity to do so. Once the defects have been remedied, a fresh acceptance test shall be carried out at the request of the Customer or of Trunz.

- 12.2.6 Acceptance shall also be deemed complete:

- if the acceptance test, for reasons beyond the control of Trunz, cannot be performed on the agreed date;
- if the Customer refuses to cooperate with or to perform the test;
- immediately if the Customer makes use of supplies or services provided by Trunz.

**13. Guarantee in respect of defects in the supply**

**13.1 Guarantee period**

The guarantee period for new plant, machinery and spare parts is 2000 operation hours, but not longer than 12 months. It shall begin once the supply is accepted by the Customer or, in the case of delivery only, once the supply leaves the works.

If delivery, assembly or acceptance are delayed for reasons beyond Trunz' control, the guarantee period shall end at the latest 18 months following notification that the goods are ready for shipment.

For replaced or repaired parts, the guarantee period shall start afresh and last for 12 months from the time of delivery of the replacement, completion of the repair or acceptance.

**13.2 Scope of the guarantee**

- 13.2.1 Trunz guarantees that the supplies are free of defects in workmanship, materials and design.

It also guarantees that the supplies have the express characteristics.

- 13.2.2 Express characteristics are only those which have been expressly stipulated as such in the purchase contract, the confirmation of order or the specifications which are an integral part of the contract.

- 13.2.3 The Customer undertakes to ensure that all operators of the supplies concerned receive training in line with the complexity of the supply. Trunz cannot be held responsible for problems arising as a result of the inadequate training of the Customer's personnel.

**13.3 Repair, price reduction, cancellation**

- 13.3.1 On the written request of the Customer, Trunz undertakes at its own discretion to repair or replace as quickly as possible any parts of its supplies which, before the expiry of the guarantee period, are proved to be defective or unusable due to bad material, poor workmanship or faulty design. Replaced parts shall become the property of Trunz.

- 13.3.2 The Customer is obliged to cooperate in the diagnosis of the defects noted and, in so far as is reasonable, to fit

spare parts supplied itself. Moreover, the Customer must ensure that Trunz is given the necessary time and opportunity to carry out the required work.

13.3.3 Costs incurred by Trunz in connection with remedying guarantee claims, in particular costs of spare parts including freight, fitting and removal by Trunz including travel, accommodation and food expenses, shall be borne by Trunz.

13.3.4 If such improvements fail, despite several attempts by Trunz to remedy the situation, or if the improvements are only partially successful, the Customer shall be entitled to an appropriate reduction in the price. If, however, the defects are of such importance that they cannot be remedied within a reasonable time and provided the supplies and services cannot be used for their specified purpose, or if such use is considerably impaired, the Customer shall be entitled to cancel the contract. The entitlement to cancel the contract or to a price reduction shall in all cases lapse on expiry of the original guarantee period (as per Clause 13.1 above), even if measures are taken during this guarantee period which interrupted the guarantee period.

#### 13.4 Exclusions from guarantee

13.4.1 There shall be no entitlement to the remedying of defects free of charge if the Customer or any third party make or carry out inappropriate changes or repairs or if the Customer, in the event of a defect, does not immediately take all possible measures to mitigate the damage and give Trunz the opportunity to remedy the defect.

13.4.2 Consequently, excluded from Trunz' guarantee are defects which cannot be proved to have their origin in bad material, poor workmanship or faulty design, e.g. those resulting from normal wear, improper maintenance, failure to observe the operating instructions, excessive loading, use of any unsuitable material, use of non-original spare parts, influence of chemical or electrolytic action, building or assembly work not undertaken by Trunz or resulting from other reasons beyond Trunz' control.

13.4.3 If it becomes apparent that there are no defects that Trunz is obliged to remedy free of charge, Trunz shall be entitled to invoice the customer in respect of costs it incurs, at the usual rates.

#### 13.6 Liability in respect of damages resulting from defects

Trunz shall be liable vis-à-vis the Customer in respect of damages suffered in connection with defects, provided the Customer can prove unlawful intent or gross negligence on the part of Trunz. No liability is accepted for consequential damages, in particular interruption to operation and loss of profits.

#### 13.7 Liability for additional obligations

Trunz is only liable to the extent of unlawful intent or gross negligence as far as claims arising out of faulty advice and the like or out of breach of any additional obligations are concerned.

#### 13.8 Exclusivity of guarantee claims

With respect to any defective material, design or workmanship as well as to any failure to fulfil express characteristics, the Customer shall not be entitled to any rights and claims other than those expressly mentioned in Clauses 13.1 to 13.7.

#### 14. Exclusion of further liability on the part of Trunz

All cases of breach of contract and the legal consequences as well as all claims on the part of the Customer, irrespective on what ground they are based, are exhaustively covered by these General conditions of supply. In particular, any claims for damages not expressly mentioned, reduction of price, withdrawal from or cancellation of the contract are excluded, unless Trunz' Customer can prove unlawful intent or gross negligence. In no case whatsoever shall the Customer be entitled to claim damages other than compensation for costs of remedying defects in the supplies. This in particular refers to, but shall not be limited to, loss of production, loss of use, loss of orders, loss of profit and other direct or indirect damage.

#### 15. Rights of recourse of Trunz

If, through actions or omissions on the part of the Customer or of persons employed or appointed by it to perform any of its obligations, personal injury or damage to the property of third parties occurs and if a claim is made against Trunz, then the latter shall be entitled to take recourse against the Customer.

#### 16. Salvatory clause

Should parts of the General conditions of supply or of the contract itself become ineffective or invalid, the rest of the contract will not be affected therefrom. The omissions will be fulfilled in good faith.

#### 17. Applicable Law and Place of jurisdiction

17.1 The contract under which these General Conditions fall, and any contracts covering additional services in connection with the supply shall be subject to Swiss law (in international relations the UN Convention on the International Sale of Goods of April 11, 1980 (CISG) is without effect).

17.2 The buyer recognizes that any disputes arising out of or in connection with these contracts shall be subject to the exclusive jurisdiction of the ordinary courts in Arbon, Switzerland.